

EXHIBIT M



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO
ALL CASES IN MDL NO. 1456.¹

)
) MDL NO. 1456
)
) CIVIL ACTION: 01-CV-12257-PBS
)
) Judge Patti B. Saris
)
) Chief Magistrate Judge Marianne B. Bowler
)
)
)

CROSS-NOTICE OF DEPOSITION OF DEIRDRE DUZOR

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively, “Abbott”) hereby cross-notices the deposition of Deirdre Duzor for purposes of the above-captioned action. This deposition has been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida, Case No. 06-21303-CIV-ASG, and now part of MDL 1456 in the United States District Court for the District of Massachusetts (the “DOJ suit”). A copy of the notice of deposition in the DOJ suit is attached as Exhibit A.

Ms. Duzor’s deposition will take place at Jones Day, 51 Louisiana Ave., N.W., Washington, D.C., 20001-2113 on October 30, 2007 beginning at 9:00 a.m. The deposition will take place before a notary public, or any other officer authorized to administer oaths. The deposition will be taken upon cross-examination.

The deposition will be recorded by stenographic and/or sound and visual means. Arrangements will be made so that counsel may participate by telephone if they wish. The

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: October 12, 2007

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, IL 60601

Tel: (312) 782-3939

Fax: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITION OF DEIRDRE DUZOR to be served upon all counsel of record electronically via LexisNexis, this 12th day of October, 2007.

/s/ Jeremy P. Cole

Jeremy P. Cole

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF DEIRDRE DUZOR

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Deirdre Duzor.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Avenue, N.W., Washington, D.C. on October 30, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: October 10, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF DEIRDRE DUZOR to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 10th day of October, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
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SUBPOENA DUCES TECUM

TO: Deirdre Duzor
Care of:
Ana Maria Martinez, Esq.
United States Attorney's Office
99 N.E. 4th Street, 3rd Floor
Miami, Florida 33132

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Jones Day

51 Louisiana Avenue, N.W.

Washington, D.C. 20001

DATE AND TIME

October 30, 2007 at 9:00 AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see attached Exhibit A

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorney for Defendant Abbott Laboratories, Inc.

October 10, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: R. Christopher Cook, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data

compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT M-1

Duzor, Deirdre

October 30, 2007

Washington, DC

Page 1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -

4 IN RE: PHARMACEUTICAL) MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION

6 PRICE LITIGATION) 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO)

8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris

9 the Florida Keys, Inc.)

10 v.) Chief Magistrate

11 Abbott Laboratories, Inc.,) Judge Marianne B.

12 No. 06-CV-11337-PBS) Bowler

13 - - - - -

14 (cross-captions on following pages)

15
16 Washington, D.C.

17 Tuesday, October 30, 2007

18 9:00 a.m.

19
20 Videotaped deposition of DEIRDRE DUZOR

21 Volume I

22

Duzor, Deirdre

October 30, 2007

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA</p> <p>2 THIRD JUDICIAL DISTRICT AT ANCHORAGE</p> <p>3 -----</p> <p>4 STATE OF ALASKA,)</p> <p>5 Plaintiff,)</p> <p>6 vs.) Case No.</p> <p>7 ABBOTT LABORATORIES and) 3AN-06-12297 CI</p> <p>8 DEY, INC.,)</p> <p>9 Defendants.)</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 IN THE CIRCUIT COURT OF</p> <p>14 MONTGOMERY COUNTY, ALABAMA</p> <p>15 -----</p> <p>16 STATE OF ALABAMA,)</p> <p>17 Plaintiff,)</p> <p>18 vs.) Case No. CV-2005-219</p> <p>19 ABBOTT LABORATORIES, INC.,) Judge Charles Price</p> <p>20 et al.,)</p> <p>21 Defendants.)</p> <p>22 -----</p>	<p style="text-align: right;">Page 4</p> <p>1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS</p> <p>2 COUNTY DEPARTMENT, CHANCERY DIVISION</p> <p>3 -----</p> <p>4 THE PEOPLE OF THE STATE OF)</p> <p>5 ILLINOIS,)</p> <p>6 Plaintiff,) Case No. 05 CH 02474</p> <p>7 vs.)</p> <p>8 ABBOTT LABORATORIES, et al.,)</p> <p>9 Defendants.)</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 COMMONWEALTH OF KENTUCKY</p> <p>14 FRANKLIN CIRCUIT COURT - DIV. II</p> <p>15 -----</p> <p>16 COMMONWEALTH OF KENTUCKY,)</p> <p>17 Plaintiff,) Civil Action</p> <p>18 vs.) NO. 03-CI-1134</p> <p>19 ABBOTT LABORATORIES, INC., et al.,)</p> <p>20 Defendants.)</p> <p>21 -----</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>2 STATE OF HAWAII</p> <p>3 -----</p> <p>4 STATE OF HAWAII,)</p> <p>5 Plaintiff,) Case No.</p> <p>6 vs.) 06-1-0720-04 EEH</p> <p>7 ABBOTT LABORATORIES, INC.,)</p> <p>8 et al.,) JUDGE EDEN</p> <p>9 Defendants.) ELIZABETH HIFO</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 IN THE FOURTH JUDICIAL DISTRICT OF THE STATE OF</p> <p>14 IDAHO, IN AND FOR THE COUNTY OF ADA</p> <p>15 -----</p> <p>16 STATE OF IDAHO,)</p> <p>17 Plaintiff,)</p> <p>18 vs.) Case No. CV OC 0701846</p> <p>19 ABBOTT LABORATORIES,)</p> <p>20 Defendant.)</p> <p>21 -----</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI</p> <p>2 FIRST JUDICIAL DISTRICT</p> <p>3 -----</p> <p>4 STATE OF MISSISSIPPI,)</p> <p>5 Plaintiff,)</p> <p>6 vs.) Civil Action No.</p> <p>7 ABBOTT LABORATORIES, INC.,) G2005-2021</p> <p>8 et al.,)</p> <p>9 Defendants.)</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 STATE OF NEW YORK</p> <p>14 SUPREME COURT: COUNTY OF ERIE</p> <p>15 -----</p> <p>16 COUNTY OF ERIE,)</p> <p>17 Plaintiff,)</p> <p>18 vs.) Index No. 05-2439</p> <p>19 ABBOTT LABORATORIES, INC.,)</p> <p>20 et al.,)</p> <p>21 Defendants.)</p> <p>22 -----</p>

2 (Pages 2 to 5)

Duzor, Deirdre

October 30, 2007

Washington, DC

Page 6

1 STATE OF NEW YORK
 2 SUPREME COURT: COUNTY OF OSWEGO
 3 -----
 4 COUNTY OF OSWEGO,)
 5 Plaintiff,)
 6 vs.) Index No. 06-0697
 7 ABBOTT LABORATORIES, INC.,)
 8 et al.,)
 9 Defendants.)
 10 -----
 11
 12
 13 STATE OF NEW YORK
 14 SUPREME COURT: COUNTY OF SCHENECTADY
 15 -----
 16 COUNTY OF SCHENECTADY,)
 17 Plaintiff,)
 18 vs.) Index No. 06-0886
 19 ABBOTT LABORATORIES, INC.,)
 20 et al.,)
 21 Defendants.)
 22 -----

Page 7

1 UNITED STATES DISTRICT COURT FOR THE
 2 SOUTHERN DISTRICT OF OHIO
 3 WESTERN DIVISION
 4 -----
 5 STATE OF OHIO,)
 6 Plaintiff,) Civil Action No.
 7 vs.) 1:06-cv-00676-SSB-TSB
 8 DEY, INC., et al.,)
 9 Defendants.)
 10 -----
 11
 12
 13 STATE OF WISCONSIN CIRCUIT COURT
 14 DANE COUNTY
 15 -----
 16 STATE OF WISCONSIN,)
 17 Plaintiff,)
 18 vs.) Case No. 04-CV-1709
 19 AMGEN INC., et al.,)
 20 Defendants.)
 21 -----
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Page 8

1 IN THE COMMONWEALTH COURT OF PENNSYLVANIA
 2 -----
 3 COMMONWEALTH OF PENNSYLVANIA)
 4 by Thomas W. Corbett, Jr. in)
 5 his capacity as Attorney)
 6 General of the Commonwealth)
 7 of Pennsylvania,)
 8 Plaintiff,)
 9 vs.) No. 212 M.D. 2004
 10 TAP PHARMACEUTICAL PRODUCTS,)
 11 INC., et al.,)
 12 Defendants.)
 13 -----
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Page 9

1 IN THE COURT OF COMMON PLEAS
 2 FIFTH JUDICIAL CIRCUIT
 3 -----
 4 STATE OF SOUTH CAROLINA, and) STATE OF
 5 HENRY D. McMASTER, in his) SOUTH CAROLINA
 6 official capacity as Attorney) COUNTY OF
 7 General for the State of South) RICHLAND
 8 Carolina,)
 9 Plaintiffs,)
 10 vs.) Civil Action No.
 11 ABBOTT LABORATORIES, INC.,) 2006-CP-40-4394
 12 Defendants.)
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3 (Pages 6 to 9)

Duzor, Deirdre

October 30, 2007

Washington, DC

<p style="text-align: right;">Page 10</p> <p>1 2 3 4 Washington, D.C. 5 Tuesday, October 30, 2007 6 9:00 a.m. 7 8 Videotaped deposition of DEIRDRE DUZOR, called 9 for examination by counsel for Abbott Laboratories 10 in the above-entitled matter, taken at the law 11 offices of Jones Day, 51 Louisiana Avenue, N.W., 12 Washington, D.C. 20001-2113, the proceedings being 13 recorded stenographically by Jonathan Wonnell, a 14 Registered Professional Court Reporter and Notary 15 Public of the District of Columbia, and transcribed 16 under his direction. 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 12</p> <p>1 A P P E A R A N C E S (Cont'd) 2 3 On behalf of the U.S. Department of Health and 4 Human Services: 5 BRIAN A. KELLEY, ESQ. 6 U.S. Department of Health & Human 7 Services 8 Office of General Counsel, CMS Division 9 330 Independence Avenue, S.W., Room 5345 10 Washington, D.C. 20201 11 (202) 205-8702 12 13 On behalf of the State of Alabama: 14 ROGER L. BATES, ESQ. 15 Hand Arendall LLC 16 1200 Park Place Tower 17 2001 Park Place North 18 Birmingham, Alabama 35203 19 (205) 324-4400 20 rbates@handarendall.com 21 22</p>
<p style="text-align: right;">Page 11</p> <p>1 A P P E A R A N C E S O F C O U N S E L 2 3 On behalf of the United States of America: 4 ANA MARIA MARTINEZ, ESQ. 5 United States Department of Justice 6 99 N.E. 4th Street 7 Miami, Florida 33132 8 (305) 961-9431 9 ana.maria.martinez@usdoj.gov 10 -- and -- 11 JOHN NEAL, ESQ. 12 U.S. Department of Justice 13 Civil Division 14 P.O. Box 261, Ben Franklin Station 15 Washington, D.C. 20044 16 (202) 305-9300 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 13</p> <p>1 A P P E A R A N C E S (Cont'd) 2 3 On behalf of the State of California: 4 RITA HANSCOM, ESQ. (via phone) 5 California Attorney General's Office 6 Civil Prosecutions Unit 7 P.O. Box 85266 8 110 West A Street, #1100 9 San Diego, California 82186 10 (619) 688-6099 11 rita.hanscom@doj.ca.gov 12 13 On behalf of the State of Florida: 14 MARY S. MILLER, ESQ. (via phone) 15 Office of the Attorney General of Florida 16 PL-01, The Capitol 17 Tallahassee, Florida 32399-1050 18 (850) 414-3600 19 mary_miller@oag.state.fl.us 20 21 22</p>

4 (Pages 10 to 13)

Duzor, Deirdre

October 30, 2007

Washington, DC

Page 14	Page 16
<p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 On behalf of the City of New York and all New</p> <p>3 York Counties other than Nassau and</p> <p>4 Orange; the States of Wisconsin,</p> <p>5 Illinois, Kentucky, Idaho, Alaska,</p> <p>6 Hawaii, South Carolina and Mississippi:</p> <p>7 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>8 Winget-Hernandez, LLC</p> <p>9 3112 Windsor Road, Suite 228</p> <p>10 Austin, Texas 78703</p> <p>11 michael@winget-hernandez.com</p> <p>12</p> <p>13 On behalf of Ven-A-Care of the Florida Keys,</p> <p>14 Inc.:</p> <p>15 ROSLYN G. POLLACK, ESQ.</p> <p>16 Berger & Montague P.C.</p> <p>17 1622 Locust Street</p> <p>18 Philadelphia, Pennsylvania 19103-6305</p> <p>19 (215) 875-3000</p> <p>20 rpollack@bm.net</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Dey, Inc., Dey, L.P. and Mylan:</p> <p>4 NEIL MERKL, ESQ.</p> <p>5 Kelley, Drye & Warren LLP</p> <p>6 101 Park Avenue</p> <p>7 New York, New York 10178</p> <p>8 (212) 808-7811</p> <p>9 nmerkl@kelleydrye.com</p> <p>10</p> <p>11 On behalf of Roxane Laboratories and</p> <p>12 Boehringer Ingelheim:</p> <p>13 ERIC GORTNER, ESQ.</p> <p>14 Kirkland & Ellis</p> <p>15 200 East Randolph Drive</p> <p>16 Chicago, Illinois 60601</p> <p>17 (312) 861-2285</p> <p>18 egortner@kirkland.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
Page 15	Page 17
<p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Abbott Laboratories, Inc.:</p> <p>4 DAVID TORBORG, ESQ.</p> <p>5 SEAN P. MALONE, ESQ.</p> <p>6 Jones Day</p> <p>7 51 Louisiana Avenue, N.W.</p> <p>8 Washington, D.C. 20001-2113</p> <p>9 (202) 879-3939</p> <p>10 dstorborg@jonesday.com</p> <p>11 spmalone@jonesday.com</p> <p>12</p> <p>13 On behalf of Bristol-Myers Squibb:</p> <p>14 EVA L. DIETZ, ESQ. (via phone)</p> <p>15 Hogan & Hartson</p> <p>16 875 Third Avenue</p> <p>17 New York, New York 10022</p> <p>18 eldietz@hhlaw.com</p> <p>19 (212) 918-3542</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Schering-Plough Corporation,</p> <p>4 Schering Corporation and Warrick</p> <p>5 Pharmaceuticals Corporation:</p> <p>6 GINGER APPLEBERRY, ESQ. (via phone)</p> <p>7 Locke, Liddell & Sapp</p> <p>8 2200 Ross Avenue, Suite 2200</p> <p>9 Dallas, Texas 75201</p> <p>10 (214) 740-8459</p> <p>11 gappleberry@lockeliddell.com</p> <p>12</p> <p>13 On behalf of Baxter Health Care and Baxter</p> <p>14 International:</p> <p>15 JARED D. RODRIGUES, ESQ. (via phone)</p> <p>16 Dickstein Shapiro LLP</p> <p>17 1825 Eye Street, N.W.</p> <p>18 Washington, D.C. 20006</p> <p>19 (202) 420-2571</p> <p>20 hearde@dicksteinshapiro.com</p> <p>21</p> <p>22</p>

5 (Pages 14 to 17)

Washington, DC

6 (Pages 18 to 21)

EXHIBIT N



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
ALL CASES IN MDL NO. 1456. ¹	)	Chief Magistrate Judge Marianne B. Bowler
)	
)	

CROSS-NOTICE OF DEPOSITION OF SUE GASTON

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively, “Abbott”) hereby cross-notices the deposition of Sue Gaston for purposes of the above-captioned action. This deposition has been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida, Case No. 06-21303-CIV-ASG, and now part of MDL 1456 in the United States District Court for the District of Massachusetts (the “DOJ suit”). A copy of the notice of deposition in the DOJ suit is attached as Exhibit A.

Ms. Gaston’s deposition will take place at Jones Day, 51 Louisiana Avenue, Washington, D.C., on January 24, 2008 beginning at 9:00 a.m. The deposition will take place before a notary public, or any other officer authorized to administer oaths. The deposition will be taken upon cross-examination.

The deposition will be recorded by stenographic and/or sound and visual means. Arrangements will be made so that counsel may participate by telephone if they wish. The

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: January 15, 2008

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, IL 60601

Tel: (312) 782-3939

Fax: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITION OF SUE GASTON to be served upon all counsel of record electronically via LexisNexis, this 15th day of January, 2008.

/s/ Jeremy P. Cole

Jeremy P. Cole

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF SUE GASTON

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Sue Gaston.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Avenue, Washington, D.C., on January 24, 2008 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: January 14, 2008

/s/ David S. Torborg
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF SUE GASTON to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 14th day of January, 2008.

/s/ David S. Torborg
David S. Torborg

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Magistrate Judge Marianne B. Bowler</p>
--	---

SUBPOENA DUCES TECUM

TO: Sue Gaston
c/o Ana Maria Martinez, Esq.
United States Attorney's Office
99 N.E. 4th Street, 3rd Floor
Miami, Florida 33132

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Jones Day 51 Louisiana Avenue, N.W. Washington, D.C. 20001	DATE AND TIME January 24, 2008 at 9:00 AM
---	--

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

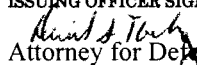
Please see attached Exhibit A

PLACE	DATE AND TIME
-------	---------------

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Defendant Abbott Laboratories, Inc.	DATE January 14, 2008
--	--------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and/or copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and/or copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises -- or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and/or copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, and/or copying. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and/or copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc. (Ven-A-Care), Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all documents in your personal possession concerning communications with the Department of Justice ("DOJ"), CMS, or Ven-A-Care regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any document or documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to, advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms,

interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegrams, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. “WAC” means “Wholesale Acquisition Cost.”

EXHIBIT N-1

Gaston, Sue

January 24, 2008

Washington, DC

Page 1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL) MDL NO. 1456
 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
 PRICE LITIGATION) 01-CV-12257-PBS
 THIS DOCUMENT RELATES TO)
 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
 the Florida Keys, Inc.)
 v.) Chief Magistrate
 Abbott Laboratories, Inc.,) Judge Marianne B.
 No. 06-CV-11337-PBS) Bowler

(cross captions appear on following pages)

Videotaped deposition of SUE GASTON

Volume I

Washington, D.C.

Thursday, January 24, 2008

9:00 a.m.

Gaston, Sue

January 24, 2008

Washington, DC

Page 2

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS
 3 -----
 4 IN RE: PHARMACEUTICAL) MDL NO. 1456
 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
 6 PRICE LITIGATION) 01-CV-12257-PBS
 7) Judge Patti B. Saris
 8 THIS DOCUMENT RELATES TO) Chief Magistrate
 9 ALL CASES IN MDL NO. 1456) Judge Marianne B.
 10 ----- Bowler
 11
 12
 13 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
 14 THIRD JUDICIAL DISTRICT AT ANCHORAGE
 15 -----
 16 STATE OF ALASKA,)
 17 Plaintiff,)
 18 vs.) Case No.
 19 ALPHARMA BRANDED PRODUCTS) 3AN-06-12026 CI
 20 DIVISION, INC., et al.)
 21 Defendants.)
 22 -----

Page 3

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 2 STATE OF HAWAII
 3 -----
 4 STATE OF HAWAII,)
 5 Plaintiff,) Case No.
 6 vs.) 06-1-0720-04 EEH
 7 ABBOTT LABORATORIES, INC.,)
 8 et al.,) JUDGE EDEN
 9 Defendants.) ELIZABETH HIFO
 10 -----
 11
 12
 13 IN THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
 14 IDAHO, IN AND FOR THE COUNTY OF ADA
 15 -----
 16 STATE OF IDAHO,)
 17 Plaintiff,)
 18 vs.) Case No.
 19 ALPHARMA USPD, INC., et al.,) CV 0C 0701847
 20 Defendant.)
 21 -----
 22

Page 4

1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 2 COUNTY DEPARTMENT, CHANCERY DIVISION
 3 -----
 4 THE PEOPLE OF THE STATE OF)
 5 ILLINOIS,)
 6 Plaintiff,) Case No. 05 CH 02474
 7 vs.)
 8 ABBOTT LABORATORIES, et al.,)
 9 Defendants.)
 10 -----
 11
 12
 13 COMMONWEALTH OF KENTUCKY
 14 FRANKLIN CIRCUIT COURT - DIV. I
 15 -----
 16 COMMONWEALTH OF KENTUCKY, ex rel.)
 17 GREGORY D. STUMBO, ATTORNEY GENERAL)
 18 Plaintiff,) Civil Action
 19 vs.) NO. 04-CI-1487
 20 ALPHARMA USPD, INC., et al.,)
 21 Defendants.)
 22 -----

Page 5

1 COMMONWEALTH OF KENTUCKY
 2 FRANKLIN CIRCUIT COURT - DIV. II
 3 -----
 4 COMMONWEALTH OF KENTUCKY,)
 5 Plaintiff,) Civil Action
 6 vs.) NO. 03-CI-1134
 7 ABBOTT LABORATORIES, INC.,)
 8 Defendants.)
 9 -----
 10
 11
 12 COMMONWEALTH OF KENTUCKY
 13 FRANKLIN CIRCUIT COURT - DIV. II
 14 -----
 15 COMMONWEALTH OF KENTUCKY, ex rel.)
 16 GREGORY D. STUMBO, ATTORNEY GENERAL)
 17 Plaintiff,) Civil Action
 18 vs.) NO. 03-CI-1135
 19 WARRICK PHARMACEUTICALS CORP.,)
 20 et al.)
 21 Defendants.)
 22 -----

2 (Pages 2 to 5)

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Gaston, Sue

January 24, 2008

Washington, DC

<p style="text-align: right;">Page 6</p> <p>1 STATE OF NEW YORK 2 SUPREME COURT: COUNTY OF ERIE 3 ----- 4 COUNTY OF ERIE,) 5 Plaintiff,) 6 vs.) Index No. 05-2439 7 ABBOTT LABORATORIES, INC.,) 8 et al.,) 9 Defendants.) 10 ----- 11 12 13 STATE OF WISCONSIN CIRCUIT COURT 14 DANE COUNTY Branch 9 15 ----- 16 STATE OF WISCONSIN,) 17 Plaintiff,) 18 vs.) Case No. 04-CV-1709 19 AMGEN INC., et al.,) 20 Defendants.) 21 ----- 22</p>	<p style="text-align: right;">Page 8</p> <p>1 A P P E A R A N C E S O F C O U N S E L 2 3 On behalf of the United States of America: 4 5 ANA MARIA MARTINEZ, ESQ. 6 United States Department of Justice 7 99 N.E. 4th Street 8 Miami, Florida 33132 9 (305) 961-9431 10 ana.maria.martinez@usdoj.gov 11 12 On behalf of the U.S. Department of Health and 13 Human Services: 14 15 LESLIE M. STAFFORD, ESQ. 16 U.S. Department of Health & Human 17 Services 18 Office of General Counsel, CMS Division 19 7500 Security Boulevard 20 Mail Stop C2-05-23 21 Baltimore, Maryland 21244 22 (410) 786-9655</p>
<p style="text-align: right;">Page 7</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF MASSACHUSETTS 3 ----- 4 IN RE: PHARMACEUTICAL) MDL NO. 1456 5 INDUSTRY AVERAGE WHOLESAL) CIVIL ACTION 6 PRICE LITIGATION) 01-CV-12257-PBS 7 THIS DOCUMENT RELATES TO) 8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris 9 the Florida Keys, Inc., et al) 10 v.) Chief Magistrate 11 Boehringer Ingelheim) Judge Marianne B. 12 Corporation, et al.,) Bowler 13 No. 07-CV-10248-PBS) 14 ----- 15 16 Videotaped deposition of SUE GASTON, held at 17 the law offices of Jones Day, 51 Louisiana Avenue, 18 N.W., Washington, D.C. 20001-2113, the proceedings 19 being recorded stenographically by Jonathan Wonnell, 20 a Registered Professional Court Reporter and Notary 21 Public of the District of Columbia, and transcribed 22 under his direction.</p>	<p style="text-align: right;">Page 9</p> <p>1 A P P E A R A N C E S (Cont'd) 2 3 On behalf of the State of Alabama: 4 5 SCARLETTE M. TULEY, ESQ. (via phone) 6 Beasley, Allen, Crow, Methvin, Portis & 7 Miles, P.C. 8 218 Commerce Street 9 Montgomery, Alabama 36104 10 (800) 898-2034 11 scarlette.tuley@beasleyallen.com 12 13 On behalf of the State of Florida: 14 15 MARY S. MILLER, ESQ. (via phone) 16 Office of the Attorney General of Florida 17 PL-01, The Capitol 18 Tallahassee, Florida 32399-1050 19 (850) 414-3600 20 mary_miller@oag.state.fl.us 21 22 (Cont'd)</p>

3 (Pages 6 to 9)

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Gaston, Sue

January 24, 2008

Washington, DC

<p style="text-align: right;">Page 10</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the City of New York and all New</p> <p>4 York Counties other than Nassau and</p> <p>5 Orange; the States of Wisconsin,</p> <p>6 Illinois, Kentucky, Idaho, Alaska and</p> <p>7 Hawaii:</p> <p>8</p> <p>9 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>10 Winget-Hernandez, LLC</p> <p>11 3112 Windsor Road, Suite 228</p> <p>12 Austin, Texas 78703</p> <p>13 michael@winget-hernandez.com</p> <p>14</p> <p>15 On behalf of Ven-A-Care of the Florida Keys, Inc.:</p> <p>16</p> <p>17 MARJORY P. ALBEE, ESQ.</p> <p>18 Mager & Goldstein LLP</p> <p>19 1818 Market Street, Suite 3710</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21 (215) 640-3280</p> <p>22 malbee@magergoldstein.com</p>	<p style="text-align: right;">Page 12</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Bristol-Myers Squibb:</p> <p>4</p> <p>5 DIANNE M. PETERSON, ESQ. (via phone)</p> <p>6 Hogan & Hartson</p> <p>7 875 Third Avenue</p> <p>8 New York, New York 10022</p> <p>9 (212) 918-3000</p> <p>10 dmpeterson@hhlaw.com</p> <p>11</p> <p>12 On behalf of Dey, Inc., Dey, L.P. and Mylan:</p> <p>13</p> <p>14 SARAH L. REID, ESQ.</p> <p>15 Kelley, Drye & Warren LLP</p> <p>16 101 Park Avenue</p> <p>17 New York, New York 10178</p> <p>18 (212) 808-7720</p> <p>19 sreid@kelleydrye.com</p> <p>20</p> <p>21</p> <p>22 (Cont'd)</p>
<p style="text-align: right;">Page 11</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 On behalf of Abbott Laboratories, Inc.:</p> <p>3</p> <p>4 DAVID TORBORG, ESQ.</p> <p>5 SEAN P. MALONE, ESQ.</p> <p>6 Jones Day</p> <p>7 51 Louisiana Avenue, N.W.</p> <p>8 Washington, D.C. 20001-2113</p> <p>9 (202) 879-3939</p> <p>10 dstorborg@jonesday.com</p> <p>11 spmalone@jonesday.com</p> <p>12</p> <p>13 On behalf of Aventis Pharmaceuticals and</p> <p>14 Sanofi Synthelabo:</p> <p>15</p> <p>16 JENNIFER H. MCGEE, ESQ.</p> <p>17 Shook, Hardy & Bacon, LLP</p> <p>18 600 Fourteenth Street, N.W.</p> <p>19 Suite 800</p> <p>20 Washington, D.C. 20005-2004</p> <p>21 (202) 783-8400</p> <p>22 jmcgee@shb.com</p>	<p style="text-align: right;">Page 13</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Roxane Laboratories and</p> <p>4 Boehringer Ingelheim:</p> <p>5</p> <p>6 ERIC GORTNER, ESQ.</p> <p>7 Kirkland & Ellis</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601</p> <p>10 (312) 861-2285</p> <p>11 egortner@kirkland.com</p> <p>12</p> <p>13 On behalf of Sandoz, Inc.:</p> <p>14</p> <p>15 DAVID L. KLEINMAN, ESQ. (via phone)</p> <p>16 White & Case LLP</p> <p>17 1155 Avenue of the Americas</p> <p>18 New York, New York 10036-2787</p> <p>19 (212) 819-2567</p> <p>20 dkleinman@whitecase.com</p> <p>21</p> <p>22</p>

4 (Pages 10 to 13)

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	Page 14		Page 16
1	A P P E A R A N C E S (Cont'd)	1	C O N T E N T S
2		2	WITNESS NAME PAGE
3	On behalf of Schering-Plough Corporation,	3	SUE GASTON
4	Schering Corporation and Warrick	4	Examination By Mr. Torborg..... 022
5	Pharmaceuticals Corporation:	5	
6		6	
7	JOHN P. BUEKER, ESQ.	7	E X H I B I T S
8	Ropes & Gray	8	NUMBER DESCRIPTION PAGE
9	One International Place	9	Exhibit Abbott 453, VAC MDL 86162 THROUGH 86175 097
10	Boston, Massachusetts 02110-2624	10	Exhibit Abbott 454, VAC MDL 64417 through 64427 139
11	(617) 951-7050	11	Exhibit Abbott 455, HHD 101-1266 through 1285.. 146
12	john.bueker@ropesgray.com	12	Exhibit Abbott 456, HHD 042-0164..... 151
13		13	Exhibit Abbott 457, HHC 008-0083..... 167
14	-- and --	14	Exhibit Abbott 458, OIG report entitled Cost of
15		15	Dialysis Related Drugs
16	GINGER APPLEBERRY, ESQ. (via phone)	16	(no Bates refs)..... 187
17	Locke, Lord, Bissell & Liddell	17	Exhibit Abbott 459, VAC MDL 45005 through 31... 206
18	2200 Ross Avenue, Suite 2200	18	Exhibit Abbott 460, HCFA Review article
19	Dallas, Texas 75201	19	entitled "State Medicaid
20	(214) 740-8459	20	Pharmacy Payments and Their
21	gappleberry@lockeliddell.com	21	Relation to Estimated Costs"
22		22	(no Bates refs)..... 206
	Page 15		Page 17
1	A P P E A R A N C E S (Cont'd)	1	I N D E X O F E X H I B I T S (Cont'd)
2		2	NUMBER DESCRIPTION PAGE
3	On behalf of Endo Pharmaceuticals:	3	Exhibit Abbott 461, HHC 992-0856 through 0858.. 222
4		4	Exhibit Abbott 462, HHC 902-0446..... 231
5	VICTOR RORTVEDT, ESQ.	5	Exhibit Abbott 463, Section 4401 of the Omnibus
6	Arnold & Porter	6	Budget Reconciliation Act
7	555 Twelfth Street, N.W.	7	of 1990 (no Bates refs).... 263
8	Washington, D.C. 20004	8	Exhibit Abbott 464, NYSHD-FOIL 01682 through
9	(202) 942-5000	9	01683..... 271
10		10	Exhibit Abbott 465, HHC 004-0054..... 276
11	On behalf of Ethex Corporation:	11	Exhibit Abbott 466, HHD 006-0103 through 0108.. 279
12		12	Exhibit Abbott 467, US' Second Supplemental
13	CLARA VONDRICH, ESQ.	13	Response to Defendant
14	Arnold & Porter	14	Abbott's Fourth Set of
15	555 Twelfth Street, N.W.	15	Interrogatories
16	Washington, D.C. 20004	16	(no Bates refs)..... 284
17	(202) 942-5000	17	
18		18	
19		19	
20	ALSO PRESENT:	20	
21	EMILY WATSON, legal assistant	21	
22	CONWAY BARKER, videographer	22	

Washington, DC

Page 287

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -

4 IN RE: PHARMACEUTICAL) MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION

6 PRICE LITIGATION) 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO)

8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris

9 the Florida Keys, Inc.)

10 v.) Chief Magistrate

11 Abbott Laboratories, Inc.,) Judge Marianne B.

12 No. 06-CV-11337-PBS) Bowler

13 - - - - -

14 (cross captions appear on following pages)

15

16 Videotaped deposition of SUE GASTON

17

18 Volume II

19

20 Washington, D.C.

21 Wednesday, March 19, 2008

22 9:00 a.m.

<p style="text-align: right;">Page 288</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF MASSACHUSETTS</p> <p>3 -----</p> <p>4 IN RE: PHARMACEUTICAL) MDL NO. 1456</p> <p>5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION</p> <p>6 PRICE LITIGATION) 01-CV-12257-PBS</p> <p>7) Judge Patti B. Saris</p> <p>8 THIS DOCUMENT RELATES TO) Chief Magistrate</p> <p>9 ALL CASES IN MDL NO. 1456) Judge Marianne B.</p> <p>10 ----- Bowler</p> <p>11</p> <p>12</p> <p>13 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA</p> <p>14 THIRD JUDICIAL DISTRICT AT ANCHORAGE</p> <p>15 -----</p> <p>16 STATE OF ALASKA,)</p> <p>17 Plaintiff,)</p> <p>18 vs.) Case No.</p> <p>19 ALPHARMA BRANDED PRODUCTS) 3AN-06-12026 CI</p> <p>20 DIVISION, INC., et al.)</p> <p>21 Defendants.)</p> <p>22 -----</p>	<p style="text-align: right;">Page 290</p> <p>1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS</p> <p>2 COUNTY DEPARTMENT, CHANCERY DIVISION</p> <p>3 -----</p> <p>4 THE PEOPLE OF THE STATE OF)</p> <p>5 ILLINOIS,)</p> <p>6 Plaintiff,) Case No. 05 CH 02474</p> <p>7 vs.)</p> <p>8 ABBOTT LABORATORIES, et al.,)</p> <p>9 Defendants.)</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 COMMONWEALTH OF KENTUCKY</p> <p>14 FRANKLIN CIRCUIT COURT - DIV. I</p> <p>15 -----</p> <p>16 COMMONWEALTH OF KENTUCKY, ex rel.)</p> <p>17 GREGORY D. STUMBO, ATTORNEY GENERAL)</p> <p>18 Plaintiff,) Civil Action</p> <p>19 vs.) NO. 04-CI-1487</p> <p>20 ALPHARMA USPD, INC., et al.,)</p> <p>21 Defendants.)</p> <p>22 -----</p>
<p style="text-align: right;">Page 289</p> <p>1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>2 STATE OF HAWAII</p> <p>3 -----</p> <p>4 STATE OF HAWAII,)</p> <p>5 Plaintiff,) Case No.</p> <p>6 vs.) 06-1-0720-04 EEH</p> <p>7 ABBOTT LABORATORIES, INC.,)</p> <p>8 et al.,) JUDGE EDEN</p> <p>9 Defendants.) ELIZABETH HIFO</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 IN THE FOURTH JUDICIAL DISTRICT OF THE STATE OF</p> <p>14 IDAHO, IN AND FOR THE COUNTY OF ADA</p> <p>15 -----</p> <p>16 STATE OF IDAHO,)</p> <p>17 Plaintiff,)</p> <p>18 vs.) Case No.</p> <p>19 ALPHARMA USPD, INC., et al.,) CV 0C 0701847</p> <p>20 Defendant.)</p> <p>21 -----</p> <p>22</p>	<p style="text-align: right;">Page 291</p> <p>1 COMMONWEALTH OF KENTUCKY</p> <p>2 FRANKLIN CIRCUIT COURT - DIV. II</p> <p>3 -----</p> <p>4 COMMONWEALTH OF KENTUCKY,)</p> <p>5 Plaintiff,) Civil Action</p> <p>6 vs.) NO. 03-CI-1134</p> <p>7 ABBOTT LABORATORIES, INC.,)</p> <p>8 Defendants.)</p> <p>9 -----</p> <p>10</p> <p>11</p> <p>12 COMMONWEALTH OF KENTUCKY</p> <p>13 FRANKLIN CIRCUIT COURT - DIV. II</p> <p>14 -----</p> <p>15 COMMONWEALTH OF KENTUCKY, ex rel.)</p> <p>16 GREGORY D. STUMBO, ATTORNEY GENERAL)</p> <p>17 Plaintiff,) Civil Action</p> <p>18 vs.) NO. 03-CI-1135</p> <p>19 WARRICK PHARMACEUTICALS CORP.,)</p> <p>20 et al.)</p> <p>21 Defendants.)</p> <p>22 -----</p>

Washington, DC

Page 292

1 STATE OF NEW YORK
 2 SUPREME COURT: COUNTY OF ERIE
 3 -----
 4 COUNTY OF ERIE,)
 5 Plaintiff,)
 6 vs.) Index No. 05-2439
 7 ABBOTT LABORATORIES, INC.,)
 8 et al.,)
 9 Defendants.)
 10 -----
 11
 12
 13 STATE OF WISCONSIN CIRCUIT COURT
 14 DANE COUNTY Branch 9
 15 -----
 16 STATE OF WISCONSIN,)
 17 Plaintiff,)
 18 vs.) Case No. 04-CV-1709
 19 AMGEN INC., et al.,)
 20 Defendants.)
 21 -----
 22

Page 293

1 IN THE CIRCUIT COURT FOR
 2 MONTGOMERY COUNTY, ALABAMA
 3 -----
 4 ITMO: ALABAMA MEDICAID)
 5 PHARMACEUTICAL AVERAGE) MASTER DOCKET NO.
 6 WHOLESALE PRICE LITIGATION) CV-2005-219
 7 -----)
 8 THIS DOCUMENT RELATES TO:)
 9 STATE OF ALABAMA v.)
 10 ABBOTT LABORATORIES, INC.)
 11 -----
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22 (CONTINUED)

Page 294

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS
 3 -----
 4 IN RE: PHARMACEUTICAL) MDL NO. 1456
 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
 6 PRICE LITIGATION) 01-CV-12257-PBS
 7 THIS DOCUMENT RELATES TO)
 8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
 9 the Florida Keys, Inc., et al)
 10 v.) Chief Magistrate
 11 Boehringer Ingelheim) Judge Marianne B.
 12 Corporation, et al.,) Bowler
 13 No. 07-CV-10248-PBS)
 14 -----
 15
 16 Continued videotaped deposition of SUE GASTON,
 17 held at the law offices of Jones Day, 51 Louisiana
 18 Avenue, N.W., Washington, D.C. 20001-2113, the
 19 proceedings being recorded stenographically by
 20 Jonathan Wonnell, a Registered Professional Court
 21 Reporter and Notary Public of the District of
 22 Columbia, and transcribed under his direction.

Page 295

1 A P P E A R A N C E S O F C O U N S E L
 2
 3 On behalf of the United States of America:
 4
 5 ANA MARIA MARTINEZ, ESQ.
 6 United States Department of Justice
 7 99 N.E. 4th Street
 8 Miami, Florida 33132
 9 (305) 961-9431
 10 ana.maria.martinez@usdoj.gov
 11
 12 -- and --
 13
 14 JAMES J. FAUCI, ESQ. (via phone)
 15 United States Attorney's Office
 16 John Joseph Moakley Building
 17 1 Courthouse Way
 18 Boston, Massachusetts 02210
 19 (617) 748-3298
 20
 21
 22

3 (Pages 292 to 295)

Washington, DC

<p style="text-align: right;">Page 296</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the U.S. Department of Health and</p> <p>4 Human Services:</p> <p>5</p> <p>6 LESLIE M. STAFFORD, ESQ.</p> <p>7 U.S. Department of Health & Human Services</p> <p>8 Office of General Counsel, CMS Division</p> <p>9 7500 Security Boulevard</p> <p>10 Mail Stop C2-05-23</p> <p>11 Baltimore, Maryland 21244</p> <p>12 (410) 786-9655</p> <p>13</p> <p>14 On behalf of the State of Alabama:</p> <p>15</p> <p>16 PAUL LYNN, ESQ. (via phone)</p> <p>17 Beasley, Allen, Crow, Methvin, Portis &</p> <p>18 Miles, P.C.</p> <p>19 218 Commerce Street</p> <p>20 Montgomery, Alabama 36104</p> <p>21 (800) 898-2034</p> <p>22 paul.lynn@beasleyallen.com</p>	<p style="text-align: right;">Page 298</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Ven-A-Care of the Florida Keys, Inc.:</p> <p>4</p> <p>5 MARJORY P. ALBEE, ESQ.</p> <p>6 Mager & Goldstein LLP</p> <p>7 1818 Market Street, Suite 3710</p> <p>8 Philadelphia, Pennsylvania 19103</p> <p>9 (215) 640-3280</p> <p>10 malbee@magergoldstein.com</p> <p>11</p> <p>12 On behalf of Abbott Laboratories, Inc.:</p> <p>13</p> <p>14 DAVID TORBORG, ESQ.</p> <p>15 SEAN P. MALONE, ESQ.</p> <p>16 Jones Day</p> <p>17 51 Louisiana Avenue, N.W.</p> <p>18 Washington, D.C. 20001-2113</p> <p>19 (202) 879-3939</p> <p>20 dstorborg@jonesday.com</p> <p>21 spmalone@jonesday.com</p> <p>22</p>
<p style="text-align: right;">Page 297</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the State of Florida:</p> <p>4</p> <p>5 MARY S. MILLER, ESQ. (via phone)</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 (850) 414-3600</p> <p>10 mary_miller@oag.state.fl.us</p> <p>11</p> <p>12 On behalf of the City of New York and all New York</p> <p>13 Counties other than Nassau and Orange; and the</p> <p>14 States of Alaska, Hawaii, Idaho, Illinois, Kentucky,</p> <p>15 South Carolina and Wisconsin:</p> <p>16</p> <p>17 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>18 Winget-Hernandez, LLC</p> <p>19 3112 Windsor Road, Suite 228</p> <p>20 Austin, Texas 78703</p> <p>21 (512) 858-4181</p> <p>22 michael@winget-hernandez.com</p>	<p style="text-align: right;">Page 299</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Aventis Pharmaceuticals and Sanofi</p> <p>4 Synthelabo:</p> <p>5</p> <p>6 MICHAEL L. KOON, ESQ.</p> <p>7 Shook, Hardy & Bacon, LLP</p> <p>8 2555 Grand Boulevard</p> <p>9 Kansas City, Missouri 64108-2613</p> <p>10 (816) 474-6550</p> <p>11 jkoon@shb.com</p> <p>12</p> <p>13 On behalf of Bristol-Myers Squibb:</p> <p>14</p> <p>15 DIANNE M. PETERSON, ESQ. (via phone)</p> <p>16 Hogan & Hartson</p> <p>17 875 Third Avenue</p> <p>18 New York, New York 10022</p> <p>19 (212) 918-3000</p> <p>20 dmpeterson@hhlaw.com</p> <p>21</p> <p>22</p>

4 (Pages 296 to 299)

Washington, DC

5 (Pages 300 to 303)

EXHIBIT O



**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
)
)
)
) MDL No. 1456

) Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO:

) Judge Patti B. Saris

ALL ACTIONS ¹

) Magistrate Judge Marianne B. Bowler
)
)

CROSS-NOTICE OF DEPOSITION OF THOMAS GUSTAFSON

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Schering Corporation ("Schering"), Schering Plough Corporation ("Schering Plough"), and Warrick Pharmaceuticals Corporation ("Warrick")² hereby cross-notice the deposition of Thomas Gustafson for purposes of all cases pending in MDL No. 1456.

On September 4, 2007, attorneys for Abbott Laboratories, Inc. noticed the deposition of Mr. Gustafson for purposes of *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 06-CV-11337-PBS, a matter that is currently a part of MDL No. 1456. This notice is attached hereto. Through this cross-notice, counsel are hereby informed that the deposition of Mr. Gustafson will also be proceeding for purposes of all other cases pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

¹ As explained herein, this cross-notice regards all actions pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

² This cross-notice, which is being served for purposes of a number of actions pending in MDL No. 1456, is only served in a particular action on behalf of those entities that have appeared, been named, and been served in that particular action. To the extent that Schering, Schering Plough, or Warrick have not appeared, been served, or been named in a particular action, this notice does not constitute an appearance, consent to service, or consent to joinder.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Ave. N.W., Washington, D.C. on September 28, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for the deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

By attorneys,

/s/ Jobe G. Danganan

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Daniel J. Bennett (BBO#663324)

Jobe G. Danganan (BBO#660446)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering Corporation, Schering-
Plough Corporation, and Warrick
Pharmaceuticals Corporation*

Dated: September 10, 2007

by Schering, Schering Plough, or Warrick, respectively, in that action. Schering, Schering Plough, and Warrick also do not waive any objection regarding jurisdiction or other defenses, where applicable.

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Jobe G. Danganan
Jobe G. Danganan

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF THOMAS GUSTAFSON

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Thomas Gustafson.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Ave. N.W., Washington, D.C. on September 28, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: September 4, 2007

/s/ David S. Torborg

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, Illinois 60601

Telephone: (312) 782-3939

Facsimile: (312) 782-8585

R. Christopher Cook

David S. Torborg

JONES DAY

51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

Telephone: (202) 879-3939

Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF THOMAS GUSTAFSON to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 4th day of September, 2007.

/s/ David S. Torborg
David S. Torborg

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
--	---

SUBPOENA DUCES TECUM

TO: Thomas Gustafson
Care of:
Andy Mao, Esq.
U.S. Department of Justice
P.O. Box 261
Washington, D.C. 20044

☐ **YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.**

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ **YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

PLACE OF DEPOSITION

Jones Day
51 Louisiana Ave. N.W.
Washington, D.C. 20001

DATE AND TIME

September 28, 2007 at 9:00 AM

☒ **YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):**

Please see attached Exhibit A

PLACE

DATE AND TIME

☐ **YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.**

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR

DEFENDANT)

David S. Torborg
Attorney for Defendant Abbott Laboratories, Inc.

DATE

September 4, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data

compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT O-1

Gustafson, Thomas A.

0001

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3
4 IN RE: PHARMACEUTICAL) MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
6 PRICE LITIGATION) 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO)
8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
9 the Florida Keys, Inc.)
10 v.) Chief Magistrate
11 Abbott Laboratories, Inc.,) Judge Marianne B.
12 No. 06-CV-11337-PBS) Bowler
13

14 (captions continue on following pages)
15

16 Videotaped deposition of THOMAS A. GUSTAFSON
17 Volume I
18
19

20 Washington, D.C.
21 Friday, September 28, 2007
22 9:00 a.m.

0002

1 COMMONWEALTH OF KENTUCKY
2 FRANKLIN CIRCUIT COURT - DIV. II
3
4 COMMONWEALTH OF KENTUCKY,)
5 Plaintiff,) Civil Action No.
6 vs.) 03-CI-1134
7 ABBOTT LABORATORIES, INC., et al.,)
8 Defendants.)
9

10
11 IN THE COURT OF COMMON PLEAS
12 FIFTH JUDICIAL CIRCUIT
13
14 STATE OF SOUTH CAROLINA, and) STATE OF
15 HENRY D. McMASTER, in his official) SOUTH CAROLINA
16 capacity as Attorney General for) COUNTY OF
17 the State of South Carolina,) RICHLAND
18 Plaintiffs,)
19 vs.) Case No.
20 ABBOTT LABORATORIES, INC.) 2006-CP-40-4394
21 Defendant.)
22

0003

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
2 STATE OF HAWAII
3
4 STATE OF HAWAII,)
5 Plaintiff,) Case No.
6 vs.) 06-1-0720-04 EEH
7 ABBOTT LABORATORIES, INC.,)
8 et al.,) JUDGE EDEN

Gustafson, Thomas A.
Defendants.) ELIZABETH HIFO

STATE OF WISCONSIN CIRCUIT COURT
DANE COUNTY

STATE OF WISCONSIN,)
Plaintiff,)
vs.) CASE NO. 04-CV-1709
AMGEN INC., et al.,)
Defendants.)

Washington, D.C.
Friday, September 28, 2007
9:00 a.m.

Videotaped deposition of THOMAS A. GUSTAFSON,
called for examination by counsel for Abbott
Laboratories in the above-entitled matter, pursuant to
subpoena, taken at the law offices of Jones Day, 51
Louisiana Avenue, N.W., Washington, D.C. 20001-2113,
before Jonathan Wonnell, a Registered Professional Court
Reporter and Notary Public of the District of Columbia.

A P P E A R A N C E S O F C O U N S E L

On behalf of the United States of America:

ANDY J. MAO, ESQ.
JUSTIN DRAYCOTT, ESQ.
U.S. Department of Justice
Civil Division
P.O. Box 261, Ben Franklin Station
Washington, D.C. 20044
(202) 305-9300
andy.mao@usdoj.gov
justin.draycott@usdoj.gov

On behalf of the U.S. Department of Health
and Human Services:

BRIAN A. KELLEY, ESQ.
U.S. Department of Health & Human

Gustafson, Thomas A.
Services
Office of General Counsel, CMS Division
330 Independence Avenue, S.W., Room 5345
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0006

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0007

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Inc.:
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Gustafson, Thomas A.
Sanofi Synthelabo:
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A P P E A R A N C E S (Cont'd)
ALSO PRESENT:
CONWAY BARKER, Videographer

Gustafson, Thomas A.

22

0013

1	I N D E X O F E X A M I N A T I O N S	
2	WITNESS NAME	PAGE
3	THOMAS A. GUSTAFSON	
4	By Mr. Cook:	17
5	By Mr. Cook:	126
6		
7	I N D E X O F E X H I B I T S	
8	DESCRIPTION	PAGE
9	Exhibit Abbott 330, Notice of deposition (No	21
10	Bates ref)	
11	Exhibit Abbott 331, Subpoena duces tecum (No	21
12	Bates ref)	
13	Exhibit Abbott 332, Resume of Thomas	28
14	Gustafson (No Bates ref)	
15	Exhibit Abbott 333, United States' Objections	164
16	and Responses to Defendant Abbott's	
17	First Set of Interrogatories (No Bates	
18	ref)	
19		
20		
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0014

1 P R O C E E D I N G S
2 THE VIDEOGRAPHER: In the United States
3 District Court for the District of Massachusetts In
4 Re: Pharmaceuticals Industry Average Wholesale
5 Price Litigation, Case Number 01-CV-12257 PBS, This
6 Document Relates to Ven-A-Care of the Florida Keys
7 Incorporated versus Abbott Laboratories
8 Incorporated et al, Case Number 06-CV-11337 PBS,
9 this is the deposition of Thomas Gustafson.
10 Today's date is September 28th 2007. The location
11 of the deposition is Jones Day, 51 Louisiana
12 Avenue, Northwest, Washington, D.C.
13 Will counsel please introduce yourselves
14 and state whom you represent?
15 MR. COOK: Christopher Cook from Jones
16 Day. We represent Abbott Laboratories, Inc. I'll
17 be accompanied on and off today by Hilary Ramsey to
18 my right.
19 MR. GORTNER: Eric Gortner from Kirkland
20 & Ellis. I represent Roxane Laboratories and
21 Boehringer Ingelheim.
22 MS. REID: Sarah Reid from Kelley Drye.

0015

1 I represent Dey and Mylan.
2 MR. FISCHER: David Fischer from Shook,
3 Hardy & Bacon. I represent Sanofi and Aventis.
4 MR. MILLER: Adam Miller of Engstrom,
5 Lipscomb & Lack of Los Angeles on behalf of
6 Ven-A-Care.
7 MR. PAUL: Nicholas Paul of the

Gustafson, Dr. Thomas A.

fson0200

1 FOR THE DISTRICT OF MASSACHUSETTS
2 - - - - -X
3 IN RE: PHARMACEUTICAL : MDL NO. 1456
4 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION
5 PRICE LITIGATION : 01-CV-12257-PBS
6 THIS DOCUMENT RELATES TO :
7 U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris
8 the Florida Keys, Inc. :
9 v. :
10 Abbott Laboratories, Inc., : Chief Magistrate
11 No. 06-CV-11337-PBS : Judge Marianne B.
12 - - - - -X Bowler
13 (CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)
14 Videotaped deposition of DR. THOMAS A. GUSTAFSON
15 Volume II
16 Washington, D.C.
17 Monday, December 17,
2007 9:19 a.m.

0201

1 COMMONWEALTH OF KENTUCKY
2 FRANKLIN COURT - DIV. II
3 - - - - -X
4 COMMONWEALTH OF KENTUCKY, :
5 Plaintiff, : Civil Action No.
6 vs. : 03-CI-1134
7 ABBOTT LABORATORIES, INC., :
8 et al., :
9 Defendants. :
10 - - - - -X

0202

1 IN THE COURT OF COMMON PLEAS
2 FIFTH JUDICIAL CIRCUIT
3 - - - - -X
4 STATE OF SOUTH CAROLINA, and: STATE OF SOUTH CAROLINA
5 Henry D. McMaster, in his : COUNTY OF RICHLAND
6 official capacity as : Case No. 2006-CP-40-4394
7 Attorney General for the :

8 Gustafson, Dr. Thomas A.
 9 State of South Carolina, :
 10 Plaintiffs, :
 11 vs. :
 12 ABBOTT LABORATORIES, INC., :
 13 Defendant. :
 14 - - - - - X

0203

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 2 STATE OF HAWAII
 3 - - - - - X
 4 STATE OF HAWAII, : Case No. 06-1-0720-04 EEH
 5 Plaintiff, :
 6 vs. :
 7 ABBOTT LABORATORIES, INC., :
 8 et al., :
 9 Defendants. :
 10 - - - - - X

11
 12 STATE OF WISCONSIN CIRCUIT COURT
 13 DANE COUNTY
 14 - - - - - X
 15 STATE OF WISCONSIN, :
 16 Plaintiff, :
 17 vs. : Case No. 04-CV-1709
 18 AMGEN, INC., et al., :
 19 Defendants. :
 20 - - - - - X

0204

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
 2 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
 3 - - - - - X
 4 STATE OF IDAHO, :
 5 Plaintiff, :
 6 vs. : Case No. CV OC 0701846
 7 ABBOTT LABORATORIES, :
 8 Defendant. :
 9 - - - - - X

10
 11 IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
 12 FIRST JUDICIAL DISTRICT
 13 - - - - - X
 14 THE STATE OF MISSISSIPPI, :
 15 Plaintiff, :
 16 vs. : Civil Action No.

17 Gustafson, Dr. Thomas A.
 18 ABBOTT LABORATORIES, INC., : G2005-2021
 19 et al., :
 20 Defendants. :
 21 - - - - - x
 22

0205
 1 COURT OF COMMON PLEAS
 2 HAMILTON COUNTY, OHIO
 3 - - - - - x
 4 STATE OF OHIO, : Judge Myers
 5 Plaintiff, : Consolidated Civil Case
 6 vs. : A0402047
 7 DEY, INC., et al., : (Case Remanded - No. may
 8 Defendants. : change)
 9 - - - - - x
 10
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0206
 1 IN THE COMMONWEALTH COURT OF PENNSYLVANIA
 2 - - - - - -x
 3 COMMONWEALTH OF PENNSYLVANIA :
 4 by THOMAS W. CORBETT, JR., in :
 5 his capacity as Attorney :
 6 General of the Commonwealth :
 7 of Pennsylvania, :
 8 Plaintiff, :
 9 vs. : No. 212 M.D. 2004
 10 TAP Pharmaceutical Products, :
 11 Inc., et al., :
 12 Defendants. :
 13 - - - - - -x
 14
 15
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0207
 1 IN THE CIRCUIT COURT OF
 2 MONTGOMERY COUNTY, ALABAMA
 Page 3

Gustafson, Dr. Thomas A.

3 - - - - -X
 4 STATE OF ALABAMA, :
 5 Plaintiff, :
 6 vs. : Case No.: CV-2005-219
 7 ABBOTT LABORATORIES, INC., : Judge Charles Price
 8 et al. :
 9 Defendants. :
 10 - - - - -X

11
 12 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 13 COUNTY DEPARTMENT, CHANCERY DIVISION
 14 - - - - -X
 15 THE PEOPLE OF THE STATE OF :
 16 ILLINOIS, :
 17 Plaintiff, :
 18 vs. : Case No. 05CH02474
 19 ABBOTT LABORATORIES, et al., :
 20 Defendants. :
 21 - - - - -X
 22

0208
 1 STATE OF NEW YORK
 2 SUPREME COURT: COUNTY OF OSWEGO
 3 - - - - -X
 4 COUNTY OF OSWEGO, :
 5 Plaintiff, :
 6 vs. : Index No. 06-0697
 7 ABBOTT LABORATORIES, INC., :
 8 et al., :
 9 Defendants. :
 10 - - - - -X

11 STATE OF NEW YORK
 12 SUPREME COURT: COUNTY OF SCHENECTADY
 13 - - - - -X
 14 COUNTY OF SCHENECTADY, :
 15 Plaintiff, :
 16 vs. : Index No. 06-0886
 17 ABBOTT LABORATORIES, INC., :
 18 et al., :
 19 Defendants. :
 20 - - - - -X
 21
 22

0209
 1
 2 IN AND FOR LEON COUNTY, FLORIDA
 3 THE STATE OF FLORIDA
 4 ex rel. :
 5 - - - - -X
 6 VEN-A-CARE OF THE FLORIDA :
 7 KEYS, INC., a Florida :
 8 Corporation, by and through its :
 9 principal officers and directors, :
 10 ZACHARY T. BENTLEY and :
 11 T. MARK JONES, :

12	Gustafson, Dr. Thomas A.	:	
13	Plaintiffs,	:	
14	vs.	:	Civil Action
15	MYLAN LABORATORIES INC.; MYLAN	:	No.: 98-3032G
16	PHARMACEUTICALS INC.; NOVOPHARM	:	Judge: William
17	LTD., SCHEIN PHARMACEUTICAL, INC.;	:	L. Gary
18	TEVA PHARMACEUTICAL INDUSTRIES	:	
19	LTD., TEVA PHARMACEUTICAL USA;	:	
20	and WATSON PHARMACEUTICALS, INC.,	:	
21	Defendants.	:	
22	- - - - -	:	X

0210	IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS		
1	STATE OF MISSOURI		
2	- - - - -	:	X
3	STATE OF MISSOURI, ex rel,	:	
4	JEREMIAH W. (JAY) NIXON,	:	
5	Attorney General,	:	
6	and	:	
7	MISSOURI DEPARTMENT OF SOCIAL	:	
8	SERVICES, DIVISION OF MEDICAL	:	Case No.
9	SERVICES,	:	054-1216
10	Plaintiffs,	:	Division No. 31
11	vs.	:	
12	DEY INC., DEY, L.P., MERCK KGaA,	:	
13	EMD, INC., WARRICK	:	
14	PHARMACEUTICALS CORPORATION,	:	
15	SCHERING-PLOUGH CORPORATION, and	:	
16	SCHERING CORPORATION,	:	
17	Defendants.	:	
18	- - - - -	:	X
19		:	
20		:	
21		:	
22		:	

0211

1 Continued Videotaped Telephone Deposition

2 of DR. THOMAS A. GUSTAFSON, a witness herein, called

3 for examination by counsel for Abbott Laboratories in

4 the above-entitled matter, pursuant to subpoena, the

5 witness being duly sworn by SUSAN L. CIMINELLI, a

6 Notary Public in and for the District of Columbia,

7 taken at the offices of Jones Day, 51 Louisiana

8 Avenue, N.W., Washington, D.C., at 9:19 a.m., and the

9 proceedings being taken down by Stenotype by SUSAN L.

10 CIMINELLI, CRR, RPR, and transcribed under her

11 direction.

12

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Gustafson, Dr. Thomas A.

21

22

0212

1 APPEARANCES:

2

3

On Behalf of the United States of
America:

5

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6

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0213

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RITA HANSCOM, ESQ.

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0214

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0218

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6 Carolina and Wisconsin:
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12 ALSO PRESENT:
13 Conway Barker, videographer
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22

0219

1 C O N T E N T S

Gustafson, Dr. Thomas A.

2	EXAMINATION	COUNSEL FOR
3	DR. THOMAS A. GUSTAFSON	DEFENDANT ABBOTT
4	By Mr. Cook	222
5		DEFENDANT DEY
6	By Ms. Reid	388
7		DEFENDANT ROXANE
8	By Mr. Gortner	433

Afternoon session - 328

E X H I B I T S

13	ABBOTT EXHIBIT NO.	PAGE
14	Exhibit Abbott 438 HHD079-0001-29 IG Report	220
15	Exhibit Abbott 439 HHD079-0030-42 Report of	
16	Congress	220
17	Exhibit Abbott 440 HHD079-0043-89 Public	
18	Policy Institute	220

P R O C E E D I N G S

(Exhibit Abbott 438,
Exhibit Abbott 439,
and Exhibit Abbott 440 were
marked for identification.)

THE VIDEOGRAPHER: In the United States
District Court for the District of Massachusetts In
Re: Pharmaceutical Industry Average Wholesale Price
Litigation related to the U.S. ex rel Ven-A-Care of
the Florida Keys, Incorporated versus Abbott
Laboratories, Incorporated et al.

Case number 01-CV-12257 PBS and other
cases cross-noticed. This is volume II in the
deposition of Thomas Gustafson. Today's date is
December 17th, 2007. The location of the deposition
is Jones Day, 51 Louisiana Avenue, Northwest,
Washington, D.C.

Will counsel please identify yourselves
and state whom you represent.

MR. COOK: Christopher Cook from Jones
Day. We represent Abbott Laboratories.

MR. GORTNER: Eric Gortner from Kirkland &

Ellis for Roxane Laboratories, Inc. and entities
affiliated with Boehringer Ingelheim Corporation.

MS. REID: Sarah Reid from Kelley, Drye &
Warren representing the Dey Companies, and in the
cross-notice depositions also representing the Mylan
Defendant.

MS. STAFFORD: Leslie Stafford on behalf
of the Centers for Medicare and Medicaid Services.

MR. DRAYCOTT: Justin Draycott, United
States Department of Justice.

EXHIBIT P



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
ALL CASES IN MDL NO. 1456. ¹	)	Chief Magistrate Judge Marianne B. Bowler

**CROSS-NOTICE OF DEPOSITIONS OF
AMY SERNYAK AND CYNTHIA HANSFORD**

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively "Abbott") hereby cross-notice the depositions of Amy Sernyak and Cynthia Hansford for purposes of the above-captioned action. These depositions have been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida (No. 06-21303-CIV-ASG) and now part of MDL 1456 in the United States District Court for the District of Massachusetts.

The depositions will take place before a notary public, or any other officer authorized to administer oaths, at the office of Morgan Lewis, 1701 Market Street, Philadelphia, PA 19103. Ms. Sernyak's deposition will begin at 9:00 a.m. on March 6, 2007. Ms. Hansford's deposition will begin at 9:00 a.m. on March 14, 2007. The depositions will be taken upon cross-examination.

Such depositions will be recorded by stenographic and/or sound and visual means. The depositions are being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

Dated: February 28, 2007

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive

Chicago, IL 60601

Telephone: (312) 782-3939

Facsimile: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITIONS OF AMY SERNYAK AND CYNTHIA HANSFORD to be served upon be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 28th day of February, 2007.

/s/ Jeremy P. Cole

EXHIBIT P-1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----X

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

6 PRICE LITIGATION : 01-CV-12257-PBS

7 -----X

8 THIS DOCUMENT RELATES TO :

9 U.S. ex rel. Ven-A-Care of :

10 The Florida Keys, Inc. :

11 v. Abbott Laboratories, :

12 Inc., No. 06-CV-11337-PBS :

13 -----X

14 Video Tape Deposition of CYNTHIA

15 HANSFORD was taken pursuant to notice at the Law

16 Offices of Morgan Lewis, 1701 Market Street,

17 Philadelphia, Pennsylvania, on Wednesday,

18 March 14, 2007, beginning at 9:00 a.m.,

19 before Jeanne Christian, Court Reporter-Notary

20 Public and Michael Mullen, Video Tape Operator,

21 there being present.

22 - - -

Hansford, Cynthia

March 14, 2007

Philadelphia, PA

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 JONES DAY</p> <p>3 BY: DAVID S. TORBORG, ESQUIRE</p> <p>4 51 Louisiana Avenue, N.W.</p> <p>5 Washington, D.C. 20001</p> <p>6 Phone: (202) 879-5562</p> <p>7 Representing Abbott Laboratories</p> <p>8</p> <p>9 US DEPARTMENT OF JUSTICE</p> <p>10 BY: JOHN K. NEAL, ESQUIRE</p> <p>11 NANCY W. BROWN, ESQUIRE</p> <p>12 Civil Division, Fraud Section</p> <p>13 601 D Street, N.W., Room 9536</p> <p>14 Washington, D.C. 20004</p> <p>15 Phone: (202) 307-0405</p> <p>16 Representing United States</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2 KELLEY DRYE & WARREN LLP</p> <p>3 BY: NEIL MERKL, ESQUIRE</p> <p>4 101 Park Avenue</p> <p>5 New York, New York 10178</p> <p>6 Phone: (212) 808-7811</p> <p>7 Representing Dey Companies</p> <p>8</p> <p>9 MORGAN, LEWIS & BOCKIUS LLP</p> <p>10 BY: ERICA SMITH-KLOCEK, ESQUIRE</p> <p>11 1701 Market Street</p> <p>12 Philadelphia, Pennsylvania 19103</p> <p>13 Phone: (215) 963-5364</p> <p>14 Representing Pfizer</p> <p>15</p> <p>16 PATTERSON BELKNAP WEBB & TYLER LLP</p> <p>17 BY: ERIK HAAS, ESQUIRE</p> <p>18 1133 Avenue of the Americas</p> <p>19 New York, New York 10036</p> <p>20 Phone: (212) 336-2117</p> <p>21 Representing J&J</p> <p>22 (CONTINUED)</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2 BERGER & MONTAGUE, P.C.</p> <p>3 BY: ROSLYN G. POLLACK, ESQUIRE</p> <p>4 1622 Locust Street</p> <p>5 Philadelphia, Pennsylvania 19103</p> <p>6 Phone: (215) 875-3000</p> <p>7 Representing Ven-A-Care of the</p> <p>8 Florida Keys</p> <p>9</p> <p>10 WEXLER TORISEVA WALLACE LLP</p> <p>11 BY: JENNIFER FOUNTAIN CONNOLLY, ESQUIRE</p> <p>12 One North LaSalle Street</p> <p>13 Suite 2000</p> <p>14 Chicago, Illinois 60602</p> <p>15 Phone: (312) 346-2222</p> <p>16 Representing MDL Plaintiffs</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2 ROPES & GRAY LLP</p> <p>3 BY: ERIC P. CHRISTOFFERSON, ESQUIRE</p> <p>4 One International Place</p> <p>5 Boston, Massachusetts 02110</p> <p>6 Phone: (617) 951-7976</p> <p>7 Representing Schering and Warrick</p> <p>8</p> <p>9</p> <p>10 APPEARING TELEPHONICALLY:</p> <p>11 KIRKLAND & ELLIS LLP</p> <p>12 BY: CEYLAN A. EATHERTON, ESQUIRE</p> <p>13 200 East Randolph Drive</p> <p>14 Chicago, Illinois 60601</p> <p>15 Phone: (312) 469-7002</p> <p>16 Representing Roxane, Boehringer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>

2 (Pages 2 to 5)

Hansford, Cynthia

March 14, 2007

Philadelphia, PA

<p style="text-align: right;">Page 6</p> <p>1 APPEARING TELEPHONICALLY: (CONTINUED)</p> <p>2 WINGET-HERNANDEZ, LLC</p> <p>3 BY: MICHAEL WINGET-HERNANDEZ, ESQUIRE</p> <p>4 3112 Windsor Road, #228</p> <p>5 Austin, Texas 78703</p> <p>6 Phone: (512) 474-4095</p> <p>7 Representing the City of New York,</p> <p>8 Counties of New York also</p> <p>9 represented by KMS and the State of</p> <p>10 Hawaii, State of Wisconsin, State</p> <p>11 of Kentucky</p> <p>12</p> <p>13 KEMPPPEL, HUFFMAN & ELLIS, P.C.</p> <p>14 BY: JASON M. GIST, ESQUIRE</p> <p>15 255 East Fireweed Lane</p> <p>16 Suite 200</p> <p>17 Anchorage, Alaska 99503</p> <p>18 Phone: (907) 277-1604</p> <p>19 Representing Schering Division</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 8</p> <p>1 APPEARING TELEPHONICALLY: (CONTINUED)</p> <p>2 BEASLEY, ALLEN, CROW, METHVIN,</p> <p>3 PORTIS & MILES, P.C.</p> <p>4 BY: CLINTON C. CARTER, ESQUIRE</p> <p>5 218 Commerce Street</p> <p>6 Montgomery, Alabama 36104</p> <p>7 Phone: (334) 269-2343</p> <p>8 Representing the State of Alabama</p> <p>9</p> <p>10 DICKSTEIN SHAPIRO LLP</p> <p>11 BY: SHAMIR PATEL, ESQUIRE</p> <p>12 1825 Eye Street NW</p> <p>13 Washington, DC 20006</p> <p>14 Phone: (202) 420-2728</p> <p>15 Representing Baxter</p> <p>16</p> <p>17 HAYNSWORTH SINKLER BOYD, P.A.</p> <p>18 BY: SARAH P. SPRUILL, ESQUIRE</p> <p>19 1201 Main Street, Suite 2200</p> <p>20 Columbia, South Carolina 29201</p> <p>21 Phone: (803) 540-7854</p> <p>22 Representing Abbott</p>
<p style="text-align: right;">Page 7</p> <p>1 APPEARING TELEPHONICALLY: (CONTINUED)</p> <p>2 ROPES & GRAY LLP</p> <p>3 BY: JOBE G. DANGANAN, ESQUIRE</p> <p>4 One International Place</p> <p>5 Boston, Massachusetts 02110</p> <p>6 Phone: (617) 951-7290</p> <p>7 Representing Schering and Warrick</p> <p>8</p> <p>9 HOGAN & HARTSON LLP</p> <p>10 BY: HOA T. T. HOANG, ESQUIRE</p> <p>11 875 Third Avenue</p> <p>12 New York, New York 10022</p> <p>13 Phone: (212) 918-3640</p> <p>14 Representing Bristol Myers Squibb</p> <p>15</p> <p>16 HOGAN & HARTSON LLP</p> <p>17 BY: JENNIFER A. WALKER, ESQUIRE</p> <p>18 111 South Calvert Street</p> <p>19 Suite 1600</p> <p>20 Baltimore, Maryland 21202</p> <p>21 Phone: (410) 659-2700</p> <p>22 Representing Amgen, Inc.</p>	<p style="text-align: right;">Page 9</p> <p>1 I N D E X</p> <p>2 - - -</p> <p>3 WITNESS: CYNTHIA HANSFORD PAGE</p> <p>4 EXAMINATION BY MR. TORBORG..... 013</p> <p>5 EXAMINATION BY MR. MERKL..... 127</p> <p>6 EXAMINATION BY MS. EATHERTON..... 146</p> <p>7</p> <p>8 - - -</p> <p>9 E X H I B I T S</p> <p>10 - - -</p> <p>11 EXHIBIT NO. DESCRIPTION PAGE</p> <p>12 Exhibit Abbott 057-Resume..... 016</p> <p>13 Exhibit Abbott 058-Subpoena..... 037</p> <p>14 Exhibit Abbott 059-OEI 03-94-00390 Report.... 046</p> <p>15 Exhibit Abbott 060-HHD-014-0235-53 Report..... 046</p> <p>16 Exhibit Abbott 061-HHD-0400 Press Report..... 074</p> <p>17 Exhibit Abbott 062-HHD-011-0706 Press Report.. 074</p> <p>18 Exhibit Abbott 063-HHD-011-0674 Press Report.. 074</p> <p>19 Exhibit Abbott 064-OEI-03-97-00292 Report..... 086</p> <p>20 Exhibit Abbott 065-HHD 009-0436-39 Report..... 116</p> <p>21 Exhibit Abbott 066-HHD-013-2784-88 Report..... 119</p> <p>22 (CONTINUED)</p>

3 (Pages 6 to 9)

EXHIBIT Q



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO:
ALL CASES.

MDL NO. 1456

C.A. No. 01-CV-12257-PBS

Hon. Patti B. Saris

CROSS-NOTICE OF DEPOSITION IN RELATED STATE COURT CASE

YOU ARE HEREBY NOTIFIED, as required by Case Management Order No. 9, that the deposition of the following individual will be taken upon oral examination at the time and place indicated below. The deposition will be taken before a notary public or another officer authorized by law to administer oaths and recorded by videotape and by stenographic means.

This deposition was originally noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida (No. 06-21303-CIV-ASG) and now part of MDL 1456 in the United States District Court for the District of Massachusetts. A copy of the Notice of Deposition served by Abbott on this same individual is attached.

Deponent	Date/Time	Location
Claire Hardwick	June 6, 2007, at 9:00 a.m.	Center For Medicare & Medicaid Services 7500 Security Boulevard Baltimore, MD 21244

Dated: May 31, 2007

Respectfully submitted,

By /s/ Jennifer Fountain Connolly

Kenneth A. Wexler

Jennifer Fountain Connolly

Amber M. Nesbitt

Wexler Toriseva Wallace LLP

One N. LaSalle Street, Suite 2000

Chicago, IL 60602

Telephone: (312) 346-2222

Facsimile: (312) 346-0022

CERTIFICATE OF SERVICE

I, Jennifer Fountain Connolly, hereby certify that I am one of plaintiffs' attorneys and that, on May 31, 2007, I caused a copy of the foregoing *Cross-Notice of Deposition in Related State Court Case* to be served on all counsel of record by causing same to be posted electronically via LexisNexis File & Serve.

/s/ Jennifer Fountain Connolly
Jennifer Fountain Connolly



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF CLAIRE HARDWICK

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Claire Hardwick.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of the Center for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244 on June 6, 2007 beginning at 9:00 a.m. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: May 24, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF CLAIRE HARDWICK to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 24th day of May, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

EXHIBIT Q-1

Baltimore, MD

Page 1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -x

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:

6 PRICE LITIGATION : 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO :

8 U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris

9 the Florida Keys, Inc. v. :

10 Abbott Laboratories, Inc., : Chief Magistrate

11 No. 06-CV-11337-PBS : Judge Marianne B.

12 - - - - -x Bowler

13 IN THE CIRCUIT COURT OF

14 MONTGOMERY COUNTY, ALABAMA

15 - - - - -x

16 STATE OF ALABAMA, :

17 Plaintiff, :

18 vs. : Case No.: CV-05-219

19 ABBOTT LABORATORIES, INC., : Judge Charles Price

20 et al., :

21 Defendants.:

22 - - - - -x

Hardwick, Claire M.

June 6, 2007

Baltimore, MD

<p style="text-align: right;">Page 2</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT</p> <p>2 IN AND FOR LEON COUNTY, FLORIDA</p> <p>3</p> <p>4 THE STATE OF FLORIDA</p> <p>5 ex rel.</p> <p>6 ----- x</p> <p>7 VEN-A-CARE OF THE FLORIDA :</p> <p>8 KEYS, INC., a Florida :</p> <p>9 Corporation, by and through its :</p> <p>10 principal officers and directors, :</p> <p>11 ZACHARY T. BENTLEY and :</p> <p>12 T. MARK JONES, :</p> <p>13 Plaintiffs, :</p> <p>14 vs. : Civil Action</p> <p>15 MYLAN LABORATORIES INC.; MYLAN : No.: 98-3032G</p> <p>16 PHARMACEUTICALS INC.; NOVOPHARM : Judge: William</p> <p>17 LTD., SCHEIN PHARMACEUTICAL, INC.; : L. Gary</p> <p>18 TEVA PHARMACEUTICAL INDUSTRIES :</p> <p>19 LTD., TEVA PHARMACEUTICAL USA; :</p> <p>20 and WATSON PHARMACEUTICALS, INC., :</p> <p>21 Defendants, :</p> <p>22 ----- x</p>	<p style="text-align: right;">Page 4</p> <p>1 Videotaped Deposition of CLAIRE M.</p> <p>2 HARDWICK, a witness herein, called for examination</p> <p>3 by counsel for Abbott Laboratories in the</p> <p>4 above-entitled matter, pursuant to notice, the</p> <p>5 witness being duly sworn by Robert M. Jakupciak, a</p> <p>6 Notary Public in and for the District of Columbia,</p> <p>7 taken at the offices of Center for Medicare &</p> <p>8 Medicaid Services, 7111 Security Blvd., Baltimore,</p> <p>9 Maryland, 21244, at 9:00 a.m., on June 6, 2007,</p> <p>10 and the proceedings being taken down by Stenotype</p> <p>11 by Robert M. Jakupciak, RPR.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS</p> <p>2 STATE OF MISSOURI</p> <p>3 ----- x</p> <p>4 STATE OF MISSOURI, ex rel., :</p> <p>5 JEREMIAH W. (JAY) NIXON, :</p> <p>6 Attorney General, :</p> <p>7 and :</p> <p>8 MISSOURI DEPARTMENT OF SOCIAL :</p> <p>9 SERVICES, DIVISION OF MEDICAL : Case No.:</p> <p>10 SERVICES, : 054-1216</p> <p>11 Plaintiffs, : Division No. 31</p> <p>12 vs. :</p> <p>13 DEY INC., DEY, L.P., MERCK KGaA, :</p> <p>14 EMD, INC., WARRICK :</p> <p>15 PHARMACEUTICALS CORPORATION, :</p> <p>16 SCHERING-PLOUGH CORPORATION, and :</p> <p>17 SCHERING CORPORATION, :</p> <p>18 Defendants, :</p> <p>19 ----- x</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the United States of America:</p> <p>4</p> <p>5 ANA MARIA MARTINEZ, ESQUIRE</p> <p>6 U.S. Department of Justice</p> <p>7 99 N.E. 4th Street</p> <p>8 Miami, Florida 33132</p> <p>9 (305) 961-9431</p> <p>10</p> <p>11 On behalf of the U.S. Department of</p> <p>12 Health and Human Services:</p> <p>13</p> <p>14 TROY A. BARSKY, ESQUIRE</p> <p>15 U.S. Department of Health and</p> <p>16 Human Services</p> <p>17 C2-05-23</p> <p>18 7500 Security Blvd.</p> <p>19 Baltimore, Maryland 21244-1850</p> <p>20 (410) 786-8873</p> <p>21</p> <p>22 (CONTINUED)</p>

2 (Pages 2 to 5)

Hardwick, Claire M.

June 6, 2007

Baltimore, MD

<p style="text-align: right;">Page 6</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of Abbott Laboratories:</p> <p>4</p> <p>5 LOUIS P. GABEL, ESQUIRE</p> <p>6 Jones Day</p> <p>7 51 Louisiana Avenue, N.W.</p> <p>8 Washington, D.C. 20001</p> <p>9 (202) 879-5411</p> <p>10</p> <p>11 (The following attorneys present by phone.)</p> <p>12</p> <p>13 On behalf of Dey Companies and Mylan:</p> <p>14</p> <p>15 CLIFFORD KATZ, ESQUIRE</p> <p>16 Kelly Drye & Warren LLP</p> <p>17 101 Park Avenue</p> <p>18 New York, New York 10178</p> <p>19 (212) 808-7609</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 8</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of KMS New York Counties:</p> <p>4</p> <p>5 MICHAEL WINGET-HERNANDEZ, ESQUIRE</p> <p>6 Winget-Hernandez, LLC</p> <p>7 3112 Windsor Road, #228</p> <p>8 Austin, Texas 78703</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Also Present</p> <p>15 Videographer: Conway Barker</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of Roxane Laboratories and</p> <p>4 Boehringer-Ingelheim and affiliated entities:</p> <p>5</p> <p>6 JARED THOMAS HECK, ESQUIRE</p> <p>7 Kirkland & Ellis LLP</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601</p> <p>10 (312) 469-7087</p> <p>11</p> <p>12 On behalf of Baxter Healthcare Corporation:</p> <p>13</p> <p>14 TINA DUCHARME REYNOLDS, ESQUIRE</p> <p>15 Dickstein Shapiro LLP</p> <p>16 1825 Eye Street, N.W.</p> <p>17 Washington, D.C. 20006</p> <p>18 (202) 420-4114</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 9</p> <p>1 C O N T E N T S</p> <p>2</p> <p>3 THE WITNESS: CLAIRE M. HARDWICK PAGE</p> <p>4 Examination By Mr. Gabel..... 011</p> <p>5</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8</p> <p>9 (NONE MARKED)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

3 (Pages 6 to 9)

EXHIBIT R



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO
ALL CASES IN MDL NO. 1456.¹

)
) MDL NO. 1456
)
) CIVIL ACTION: 01-CV-12257-PBS
)
) Judge Patti B. Saris
)
) Chief Magistrate Judge Marianne B. Bowler
)
)

CROSS-NOTICE OF DEPOSITION OF JOHN HOOVER

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively, “Abbott”) hereby cross-notices the deposition of John Hoover for purposes of the above-captioned action. This deposition has been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida, Case No. 06-21303-CIV-ASG, and now part of MDL 1456 in the United States District Court for the District of Massachusetts (the “DOJ suit”). A copy of the notice of deposition in the DOJ suit is attached as Exhibit A.

Mr. Hoover’s deposition will take place at Jones Day, 51 Louisiana Ave., N.W., Washington, D.C., 20001-2113 on December 18, 2007 beginning at 9:00 a.m. The deposition will take place before a notary public, or any other officer authorized to administer oaths. The deposition will be taken upon cross-examination.

The deposition will be recorded by stenographic and/or sound and visual means. Arrangements will be made so that counsel may participate by telephone if they wish. The

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: December 4, 2007

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, IL 60601

Tel: (312) 782-3939

Fax: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITION OF JOHN HOOVER to be served upon all counsel of record electronically via LexisNexis, this 4th day of December, 2007.

/s/ Jeremy P. Cole

Jeremy P. Cole

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF JOHN HOOVER

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of John Hoover.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001-2113, on December 18, 2007 beginning at 9:00 a.m. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: November 30, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF JOHN HOOVER to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 30th day of November, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLUMBIA

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc., et al., v. Abbott Laboratories, Inc., et al.</i></p>	<p>Pending in:</p> <p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257</p> <p>Judge Patti B. Saris</p> <p>Magistrate Judge Marianne B. Bowler</p>
--	---

SUBPOENA DUCES TECUM

TO: John Hoover
 Care of:
 Gejaa Gobena, Esq.
 Patrick Henry Building
 601 D Street, N.W.
 Room 9028
 Washington, D.C. 20004

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Jones Day 51 Louisiana Avenue, N.W. Washington, D.C. 20001	DATE AND TIME December 18, 2007 at 9:00 AM
---	---

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see attached Exhibit A

PLACE	DATE AND TIME
-------	---------------

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant Abbott Laboratories, Inc.	DATE November 30, 2007
---	-------------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: R. Christopher Cook, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, DC 20001 (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations,

facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT R-1

CI

Hoover, John W

1

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT AT ANCHORAGE

3 - - - - - x

4 STATE OF ALASKA, :

Plaintiff, : Case No.

6 vs. : 3AN-06-12297

7 ABBOTT LABORATORIES and DEY, INC.,:

8 Defendants. :

9 - - - - - x

10

ALABAMA

11 IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY,

12 - - - - - x

13 In the Matter of: :

14 :

15 ALABAMA MEDICAID PHARMACEUTICAL : Master Docket

16 AVERAGE WHOLESALE PRICE LITIGATION:

CV-2005-219 17 - - - - - x No.

18 This Document Relates to: :

19 :

20 State of Alabama vs. :

21 Abbott Laboratories, Inc. :

22 - - - - - x

Hoover, John W

□

2

EEH

1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
2 STATE OF HAWAII
3 - - - - -x
4 STATE OF HAWAII, :
5 Plaintiff, : Case No.
6 vs. : 06-1-0720-04
7 ABBOTT LABORATORIES, et al., : Judge Eden
8 Defendants. : Elizabeth Hifo
9 - - - - -x
10
11
12 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL
13 DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
14 COUNTY OF ADA
15 - - - - -x
16 STATE OF IDAHO, :
17 Plaintiff, : Case No.
18 vs. : CV OC 0701846
19 ABBOTT LABORATORIES, :
20 Defendant. :

21 Hoover, John W - - - - -x
22

□

3

1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
2 COUNTY DEPARTMENT, CHANCERY DIVISION
3 - - - - - x
4 THE PEOPLE OF THE STATE OF ILLINOIS, :
5 Plaintiff, : Case No.
6 vs. : 05 CH 02474
7 ABBOTT LABORATORIES, et al., :
8 Defendants. :
9 - - - - - x
10
11
12 COMMONWEALTH OF KENTUCKY
13 FRANKLIN CIRCUIT COURT - DIV. II
14 CIVIL ACTION NO. 03-CI-1134
15 - - - - - x
16 COMMONWEALTH OF KENTUCKY, :
17 Plaintiff, : Judge Crittenden
18 vs. :
19 ABBOTT LABORATORIES, INC., :
Page 3

Hoover, John W
20 Defendant. :
21 - - - - - x
22

□

4

Saris

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - - -x
4 IN RE: PHARMACEUTICAL INDUSTRY : MDL NO. 1456
5 AVERAGE WHOLESALE PRICE : CIVIL ACTION:
6 LITIGATION : 01-CV-12257-PBS
7 - - - - - -x Judge Patti B.
8 THIS DOCUMENT RELATES TO : Chief Magistrate
9 ALL CASES IN MDL NO. 1456. : Judge Marianne B.
10 - - - - - -x Bowler
11
12
13 IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
14 FIRST JUDICIAL DISTRICT
15 - - - - - -x
16 THE STATE OF MISSISSIPPI, :
17 Plaintiff, : CIVIL ACTION
Page 4

NO. Hoover, John W

18 vs. : G2005-2021

19 ABBOTT LABORATORIES INC., et al.,:

20 Defendants. :

21 - - - - -x

22

□

5

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -x

4 IN RE: PHARMACEUTICAL INDUSTRY: MDL NO. 1456

5 AVERAGE WHOLESALE PRICE : Civil Action Nos.

6 LITIGATION : 1:07-cv-10270-PBS

7 - - - - -x 1:07-cv-12257-PBS

8 This filing relates to :

9 State of Ohio v. Dey, Inc., :

10 et al. : Judge Patti B.

11 Case No. 1:07-cv-10270-PBS : Saris

12 - - - - -x

13

14 COURT OF COMMON PLEAS

15 HAMILTON COUNTY, OHIO

Page 5

Hoover, John W

16 - - - - - - - - - - - - - - - -x
17 STATE OF OHIO, :
18 Plaintiff, : Consolidated Civil
19 vs. : Case No. A0402047
20 DEY, INC., et al., : (Case Remanded -
21 Defendants.: Case No. May Change)
22 - - - - - - - - - - - - - - - -x Judge Myers

□

6

1 STATE OF NEW YORK
2 SUPREME COURT: COUNTY OF OSWEGO
3 - - - - - - - - - - - - - - - -x
4 COUNTY OF OSWEGO, :
5 Plaintiff, : Index No.
6 vs. : 06-0697
7 ABBOTT LABORATORIES, INC. et al.,:
8 Defendants. :
9 - - - - - - - - - - - - - - - -x
10
11 IN THE COMMONWEALTH COURT OF PENNSYLVANIA
12 - - - - - - - - - - - - - - - -x
13 COMMONWEALTH OF PENNSYLVANIA, :

14 Hoover, John W
14 by THOMAS W. CORBETT, JR. in his :
15 capacity as Attorney General of :
16 the Commonwealth of Pennsylvania, :
17 Plaintiff, : No.:
18 vs. : 212 M.D. 2004
19 TAP PHARMACEUTICAL PRODUCTS, INC.,:
20 ET AL., :
21 Defendants. :
22 - - - - - X

□

7

OF 1 STATE OF SOUTH CAROLINA : IN THE COURT
FOR 2 COUNTY OF RICHLAND : COMMON PLEAS
3 - - - - - X THE FIFTH
CIRCUIT 4 STATE OF SOUTH CAROLINA, and : JUDICIAL
5 HENRY D. MCMASTER, in his official:
6 capacity as Attorney General for :
7 the State of South Carolina, :
8 Plaintiff, : Case No.:
9 vs. :
2006-CP-40-4394
10 ABBOTT LABORATORIES, INC., :
Page 7

Hoover, John W

11 Defendant. :

12 - - - - - x

13

14 STATE OF NEW YORK

15 SUPREME COURT : COUNTY OF SCHENECTADY

16 - - - - - x

17 COUNTY OF SCHENECTADY, :

18 Plaintiff, : Index No.

06-0886

19 vs. :

20 ABBOTT LABORATORIES INC. et al.,:

21 Defendants. :

22 - - - - - x

□

1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

2 Branch 9

3 - - - - - -x

4 STATE OF WISCONSIN, :

5 Plaintiff, : Case No.:

04-CV-1709

6 vs. :

7 AMGEN INC., et al., :

8 Hoover, John W
Defendants. :
9 - - - - -x
10 Washington, D.C.
11 Tuesday, December 18, 2007
12 Videotaped Deposition of JOHN W. HOOVER,
13 a witness herein, called for examination by
counsel
14 for Abbott Laboratories, in the above-entitled
15 matter, pursuant to notice, the witness being duly
16 sworn by KAREN YOUNG, a Notary Public in and for
the
17 District of Columbia, taken at the offices of
Jones
18 Day, 51 Louisiana Avenue, Northwest, Washington,
19 D.C., at 9:52 a.m. on Tuesday, December 18, 2007,
20 and the proceedings being taken down by Stenotype
21 by KAREN YOUNG, and transcribed under her
direction.
22

□

9

1 APPEARANCES:

2

3 On Behalf of the State of Florida: (by telephone)

4 Hoover, John W
5
6 GRETCHEN WALLACE, ESQ.
office State of Florida Attorney General's
7 PL-01 The Capitol
8 Tallahassee, Florida 32399
9 gretchen.wallace@myfloridalegal.com
10 (850) 414-3911
11
12 On Behalf of the United States of America:
13
14 GEORGE B. HENDERSON, ESQ.
15 U.S. Department of Justice
16 U.S. Attorney's Office
17 United States Courthouse
18 1 Courthouse Way, Suite 9200
19 Boston, MA 02210
20 george.henderson2@usdoj.gov
21 (617) 748-3272
22

□

10

1 APPEARANCES: (CONTINUED)

Hoover, John W

2

3 On Behalf of the U.S. Department of Health and
4 Human Services:

5

6 BRIAN A. KELLEY, ESQ.

Services

7 US Department of Health and Human

8 Office of General Counsel, CMS Division

9 330 Independence Avenue, S.W., Room 5345

10 Washington, D.C. 20201

11 brian.kelley@hhs.gov

12 (202) 205-8702

13

14 On Behalf of Abbott Laboratories:

15

16 SEAN P. MALONE, ESQ.

17 Jones Day

18 51 Louisiana Avenue, Northwest

19 Washington, D.C. 20001-2113

20 SPMALONE@JONESDAY.COM

21 (202) 879-3939

22

□

Hoover, John W

1 APPEARANCES: (CONTINUED)

2

3 On Behalf of Dey, Inc., Dey, L.P.,
4 and Dey, L.P. Inc.:

5

6 MARISA A. SZELAG, ESQ.
7 Kelley Drye & Warren LLP
8 101 Park Avenue
9 New York, New York 10178
10 mszelag@kelleydrye.com
11 (212) 808-7697

12

13 On Behalf of the State of California: (by
telephone)

14

15 ELISEO SISNEROS, ESQ.
16 Bureau of Medical Fraud & Elder Abuse
17 Civil Prosecutions Unit
18 110 West A Street, #1100
19 San Diego, California 92101
20 eliseo.sisneros@doj.ca.gov
21 (619) 688-6043

22

□

Hoover, John W

1 APPEARANCES: (CONTINUED)

2

3 On Behalf of the State of Alabama: (by telephone)

4

5 H. CLAY BARNETT, III, ESQ.

6 PAUL LYNN, ESQ.

7 Beasley, Allen, Crow, Methvin,

8 Portis & Miles, P.C.

9 218 Commerce Street

10 Montgomery, Alabama 36104

11 clay.barnett@beasleyallen.com

12 (800) 898-2034

13

14 On Behalf of Bristol-Myers Squibb: (by telephone)

15

16 DIANNE M. PETERSON, ESQ.

17 Hogan & Hartson LLP

18 875 Third Avenue

19 New York, New York 20022

20 dmpeterson@hhlaw.com

21 jpfeingold@hhlaw.com

22 (212) 918-3636

Hoover, John W

□

13

1 APPEARANCES: (CONTINUED)

2

3 On Behalf of Roxane Laboratories and Boehringer
4 Ingelheim: (by telephone)

5

6 JARED HECK, ESQ.

7 Kirkland & Ellis LLP

8 200 East Randolph Drive

9 Chicago, Illinois 60601-6636

10 jheck@kirkland.com

11 (312) 469-7087

12

13 On Behalf of Schering-Plough Corporation,
14 Schering Corporation and warrick
15 Pharmaceuticals Corporation: (by telephone)

16

17 C. SCOTT JONES, ESQ.

18 Locke, Liddell & Sapp

19 2200 Ross Avenue, Suite 2200

20 Dallas, Texas 75201

21 sjones@lockelidell.com

22 (214) 740-8594

Hoover, John W

□

14

1 APPEARANCES: (CONTINUED)

2

3 ALSO PRESENT:

4

5 Mia Marbury, Videographer

6

7

8

9

10

11

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Hoover, John W

□

15

	1	C O N T E N T S
	2	
PAGE	3	THE WITNESS: JOHN W. HOOVER
019	4	Examination By Mr. Malone.....
161	5	Examination By Ms. Szilag.....
198	6	Examination By Mr. Heck.....
217	7	Examination By Mr. Henderson.....
	8	
	9	
	10	E X H I B I T S
PAGE	11	NUMBER DESCRIPTION
	12	Exhibit Abbott 507-Notice of Deposition of
056	13	John Hoover.....
	14	Exhibit Abbott 508-Centers for Medicare &
086	15	Medicaid Services Web Site..
	16	Exhibit Abbott 509-Medicaid Program Budget

EXHIBIT S



**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456

Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO:

Judge Patti B. Saris

ALL ACTIONS ¹

Magistrate Judge Marianne B. Bowler

CROSS-NOTICE OF DEPOSITION OF RICHARD MORRIS

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Schering Corporation ("Schering"), Schering Plough Corporation ("Schering Plough"), and Warrick Pharmaceuticals Corporation ("Warrick")² hereby cross-notice the deposition of Richard Morris for purposes of all cases pending in MDL No. 1456.

On August 8, 2007, attorneys for Abbott Laboratories, Inc. noticed the deposition of Mr. Morris for purposes of *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 06-CV-11337-PBS, a matter that is currently a part of MDL No. 1456. This notice is attached hereto. Through this cross-notice, counsel are hereby informed that the deposition of Mr. Morris will also be proceeding for purposes of all other cases pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

¹ As explained herein, this cross-notice regards all actions pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

² This cross-notice, which is being served for purposes of a number of actions pending in MDL No. 1456, is only served in a particular action on behalf of those entities that have appeared, been named, and been served in that particular action. To the extent that Schering, Schering Plough, or Warrick have not appeared, been served, or been named in a particular action, this notice does not constitute an appearance, consent to service, or consent to joinder.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Microtel Inns & Suites, 215 Collins Industrial Way, Lawrenceville, Georgia on August 29, 2007 beginning at 8:30 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for the deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

By attorneys,

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Eric P. Christofferson (BBO#654087)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering Corporation, Schering-
Plough Corporation, and Warrick
Pharmaceuticals Corporation*

Dated: August 13, 2007

by Schering, Schering Plough, or Warrick, respectively, in that action. Schering, Schering Plough, and Warrick also do not waive any objection regarding jurisdiction or other defenses, where applicable.

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Jobe G. Danganan
Jobe G. Danganan



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF RICHARD MORRIS

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Richard Morris.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Microtel Inns & Suites, 215 Collins Industrial Way, Lawrenceville, Georgia on August 29, 2007 beginning at 8:30 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: August 8, 2007

/s/ David S. Torborg

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, Illinois 60601

Telephone: (312) 782-3939

Facsimile: (312) 782-8585

R. Christopher Cook

David S. Torborg

JONES DAY

51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

Telephone: (202) 879-3939

Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF RICHARD MORRIS to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 8th day of August, 2007.

/s/ David S. Torborg
David S. Torborg

Aug 8 2007
5:38PM

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
--	---

SUBPOENA DUCES TECUM

TO: Richard Morris
Care of:
Ana Maria Martinez, Esq.
Assistant United States Attorney
99 N.E. 4th Street
Miami, FL 33132

☐ **YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.**

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ **YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

PLACE OF DEPOSITION

Microtel Inns & Suites
215 Collins Industrial Way
Lawrenceville, Georgia

DATE AND TIME

August 29, 2007 at 8:30 AM

☒ **YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):**

Please see attached Exhibit A

PLACE

DATE AND TIME

☐ **YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.**

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

David S. Torborg
Attorney for Defendant Abbott Laboratories, Inc.

DATE

August 8, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data

compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT S-1

Morris, Richard L.

August 29, 2007

Lawrenceville, GA

Page 1

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X
In re: PHARMACEUTICAL) MDL DOCKET NO.
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01CV12257-PBS
-----X

IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

-----X
STATE OF ALABAMA,) CASE NUMBER:
Plaintiff,) CV-2005-219
vs.)
ABBOTT LABORATORIES, INC.,)
et al.,)
Defendants.)
-----X

VIDEOTAPED DEPOSITION OF RICHARD L. MORRIS
LAWRENCEVILLE, GEORGIA
WEDNESDAY, AUGUST 29, 2007

Morris, Richard L.

August 29, 2007

Lawrenceville, GA

<p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of RICHARD L. MORRIS, a 2 witness herein, called for examination by counsel 3 for Defendant Abbott Laboratories in the above- 4 entitled matter, pursuant to Notice, the witness 5 being duly sworn by STEVEN S. HUSEBY, a Notary 6 Public in and for the State of Georgia, taken at 7 The Microtel Inn, 215 Collins Industrial Way, 8 Lawrenceville, Georgia, at 8:39 a.m., and the 9 proceedings being taken down by Stenotype by 10 STEVEN S. HUSEBY, CRR, RPR, and transcribed under 11 his direction. 12 13 14 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S: (CONTINUED) 2 3 On Behalf of Ven-A-Care of the Florida Keys, Inc.: 4 5 GARY L. AZORSKY, Esq. 6 Berger & Montague, P.C. 7 1622 Locust Street 8 Philadelphia, PA 19103 9 (215) 875-3090 10 11 12 On behalf of the Plaintiff States of HI, ID, KY, 13 WI, NYC, New York Counties in MDL 1456 other than 14 Nassau and Orange: 15 16 MICHAEL WINGET-HERNANDEZ, ESQ. 17 Winget-Hernandez LLP 18 3112 Windsor Rd., #228 19 Austin, TX 78703 20 (512) 474-4095 21 22 (CONTINUED)</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S: 2 3 On Behalf of Abbott Laboratories: 4 5 LOUIS P. GABEL, Esq. 6 Jones Day 7 51 Louisiana Avenue, N.W. 8 Washington, D.C. 20001-2113 9 (202) 879-3939 10 11 12 On Behalf of SmithKline Beecham Corporation, 13 d/b/a GlaxoSmithKline: 14 15 RONALD G. DOVE, JR., Esq. 16 Covington & Burling, LLP 17 1201 Pennsylvania Avenue, NW 18 Washington, DC 20004-2401 19 (202) 662-6000 20 21 22 (CONTINUED)</p>	<p style="text-align: right;">Page 5</p> <p>1 A P P E A R A N C E S: (CONTINUED) 2 3 On Behalf of The State of Florida: 4 5 MARY S. MILLER, Esq. 6 Office of the Attorney General 7 PL-01, The Capitol 8 Tallahassee, Florida 32399 9 (850) 414-3600 10 11 12 On Behalf of The United States of America: 13 14 ANA MARIA MARTINEZ, Esq. 15 Assistant U.S. Attorney 16 99 N.E. 4th Street 17 Miami, FL 33132 18 (305) 961-9001 19 20 21 22 (CONTINUED)</p>

2 (Pages 2 to 5)

Morris, Richard L.

August 29, 2007

Lawrenceville, GA

<p style="text-align: right;">Page 6</p> <p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of the State of Alabama:</p> <p>4</p> <p>5 W. DANIEL "Dee" MILES, III, Esq.</p> <p>6 Beasley, Allen, Crow, Methvin,</p> <p>7 Portis & Miles, P.C.</p> <p>8 218 Commerce Street</p> <p>9 Montgomery, AL 36104</p> <p>10 (334) 269-2343</p> <p>11</p> <p>12</p> <p>13 On Behalf of Abbott Laboratories:</p> <p>14</p> <p>15 (Appearance via phone)</p> <p>16 SARAH P. SPRUILL, Esq.</p> <p>17 Haynsworth Sinkler Boyd, P.A.</p> <p>18 1201 Main Street</p> <p>19 22nd Floor</p> <p>20 Columbia, South Carolina 29201</p> <p>21 (803) 540-7854</p> <p>22</p>	<p style="text-align: right;">Page 8</p> <p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of AstraZeneca Pharmaceuticals LP and</p> <p>4 AstraZeneca LP:</p> <p>5</p> <p>6 (Appearance via phone)</p> <p>7 CATHERYN O'ROURKE, Esq.</p> <p>8 Davis Polk & Wardwell</p> <p>9 450 Lexington Avenue</p> <p>10 New York, NY 10017</p> <p>11 (212) 450-4017</p> <p>12</p> <p>13</p> <p>14 On Behalf of Bristol-Myers Squibb Company:</p> <p>15</p> <p>16 (Appearance via phone)</p> <p>17 HOA HOANG, Esq.</p> <p>18 Hogan & Hartson, LLP</p> <p>19 875 Third Avenue</p> <p>20 New York, NY 10022</p> <p>21 (212) 918-3640</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Schering Corporation, Schering-Plough</p> <p>4 Corporation, and Warrick Pharmaceuticals</p> <p>5 Corporation:</p> <p>6</p> <p>7 (Appearance via phone)</p> <p>8 GINGER APPLEBERRY, Esq.</p> <p>9 Locke Liddell & Sapp PLLC</p> <p>10 2200 Ross Avenue, Suite 2200</p> <p>11 Dallas, Texas 75201</p> <p>12 (214) 740-8459</p> <p>13</p> <p>14</p> <p>15 On Behalf of Sandoz, Inc.:</p> <p>16</p> <p>17 (Appearance via phone)</p> <p>18 THOMAS M. BIESTY, Esq.</p> <p>19 White & Case LLP</p> <p>20 1155 Avenue of the Americas</p> <p>21 New York, New York 10036-2787</p> <p>22 (212) 819-8713</p>	<p style="text-align: right;">Page 9</p> <p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Barr Laboratories, Inc.:</p> <p>4</p> <p>5 (Appearance via phone)</p> <p>6 JUDSON D. BROWN, Esq.</p> <p>7 Kirkland & Ellis LLP</p> <p>8 655 Fifteenth Street, NW</p> <p>9 Washington D.C. 20005</p> <p>10 (202) 879-5082</p> <p>11</p> <p>12</p> <p>13 On Behalf of Aventis Pharmaceuticals Inc.:</p> <p>14</p> <p>15 (Appearance via phone)</p> <p>16 TIFFANY WESTPHAL KILLOREN, Esq.</p> <p>17 Shook, Hardy & Bacon L.L.P.</p> <p>18 2555 Grand Blvd.</p> <p>19 Kansas City, Missouri 64108</p> <p>20 (816) 474-6550</p> <p>21</p> <p>22 (CONTINUED)</p>

3 (Pages 6 to 9)

Lawrenceville, GA

<p style="text-align: right;">Page 10</p>	<p style="text-align: right;">Page 12</p>
<p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of The Centers for Medicare &</p> <p>4 Medicaid Services</p> <p>5</p> <p>6 (Appearance via phone)</p> <p>7 LESLIE M. STAFFORD, Esq.</p> <p>8 7500 Security Boulevard</p> <p>9 Mail Stop C2-05-23</p> <p>10 Baltimore, MD 21244</p> <p>11 (410) 786-9655</p> <p>12</p> <p>13 On Behalf of Dey, Inc., Dey, L.P., Dey L.P., Inc.,</p> <p>14 Mylan Laboratories, Inc., Mylan Pharmaceuticals,</p> <p>15 Inc., UDL Laboratories, Inc.:</p> <p>16</p> <p>17 (Appearance via phone)</p> <p>18 CLIFF KATZ, Esq.</p> <p>19 Kelley Drye & Warren LLP</p> <p>20 101 Park Avenue</p> <p>21 New York, NY 10178</p> <p>22 (212) 808-7609</p>	<p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Roxanne Laboratories and</p> <p>4 Boehringer Ingelheim:</p> <p>5</p> <p>6 ERIC T. GORTNER, Esq.</p> <p>7 Kirkland & Ellis LLP</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601-6636</p> <p>10 (312) 861-2000</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 11</p>	<p style="text-align: right;">Page 13</p>
<p>1 A P P E A R A N C E S: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Baxter Healthcare Corporation:</p> <p>4</p> <p>5 (Appearance via phone)</p> <p>6 JASON D. WALLACH, Esq.</p> <p>7 Dickstein, Shapiro LLP</p> <p>8 1825 Eye Street, N.W.</p> <p>9 Washington, D.C. 20006</p> <p>10 (202) 420-2200</p> <p>11</p> <p>12</p> <p>13 On Behalf of the State of California:</p> <p>14</p> <p>15 STEVE ROSS, Esq.</p> <p>16 Attorney General's Office</p> <p>17 California Department of Justice</p> <p>18 P.O. Box 944255</p> <p>19 Sacramento, CA 94244-2550</p> <p>20 (916) 322-3360</p> <p>21</p> <p>22 (CONTINUED)</p>	<p>1 I N D E X</p> <p>2</p> <p>3 WITNESS: RICHARD L. MORRIS PAGE</p> <p>4</p> <p>5 EXAMINATION BY MR. GABEL..... 021</p> <p>6 EXAMINATION BY MR. MILES..... 207</p> <p>7 EXAMINATION BY MR. HERNANDEZ..... 224</p> <p>8 EXAMINATION BY MR. AZORSKY..... 226</p> <p>9 EXAMINATION BY MR. DOVE..... 234</p> <p>10 FURTHER EXAMINATION BY MR. MILES..... 254</p> <p>11 FURTHER EXAMINATION BY MR. DOVE..... 257</p> <p>12</p> <p>13</p> <p>14 E X H I B I T S</p> <p>15 NUMBER DESCRIPTION PAGE</p> <p>16 Exhibit Abbott 264 - Resume of Richard Morris.. 055</p> <p>17 Exhibit Abbott 265 - ABT-DOJ 0300421 to 422.... 063</p> <p>18 Exhibit Abbott 266 - ABT-DOJ 0300434 to 436.... 063</p> <p>19 Exhibit Abbott 267 - Excerpt from Federal</p> <p>20 Register Volume 39,</p> <p>21 Number 230, Dated</p> <p>22 November 27, 1974..... 080</p>

EXHIBIT T



**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

)
)
) MDL No. 1456
)

) Civil Action No. 01-12257-PBS
)

THIS DOCUMENT RELATES TO:

) Judge Patti B. Saris
)

ALL ACTIONS ¹

) Magistrate Judge Marianne B. Bowler
)
)

CROSS-NOTICE OF DEPOSITION OF ROBERT NIEMANN

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Schering Corporation ("Schering"), Schering Plough Corporation ("Schering Plough"), and Warrick Pharmaceuticals Corporation ("Warrick")² hereby cross-notice the deposition of Robert Niemann for purposes of all cases pending in MDL No. 1456.

On August 22, 2007, attorneys for Abbott Laboratories, Inc. noticed the deposition of Mr. Niemann for purposes of *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 06-CV-11337-PBS, a matter that is currently a part of MDL No. 1456. This notice is attached hereto. Through this cross-notice, counsel are hereby informed that the deposition of Mr. Niemann will also be proceeding for purposes of all other cases pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

¹ As explained herein, this cross-notice regards all actions pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

² This cross-notice, which is being served for purposes of a number of actions pending in MDL No. 1456, is only served in a particular action on behalf of those entities that have appeared, been named, and been served in that particular action. To the extent that Schering, Schering Plough, or Warrick have not appeared, been served, or been named in a particular action, this notice does not constitute an appearance, consent to service, or consent to joinder.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the Centers for Medicare and Medicaid Services, 7111 Security Boulevard, Room B-310, Baltimore, MD on September 14, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for the deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

By attorneys,

/s/ Jobe G. Danganan

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Daniel J. Bennett (BBO#663324)

Jobe G. Danganan (BBO#660446)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering Corporation, Schering-
Plough Corporation, and Warrick
Pharmaceuticals Corporation*

Dated: August 30, 2007

by Schering, Schering Plough, or Warrick, respectively, in that action. Schering, Schering Plough, and Warrick also do not waive any objection regarding jurisdiction or other defenses, where applicable.

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Jobe G. Danganan
Jobe G. Danganan

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF ROBERT NIEMANN

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Robert Niemann.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Centers for Medicare & Medicaid Services, 7111 Security Boulevard, Room B-310, Baltimore, Maryland on September 14, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: August 22, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF ROBERT NIEMANN to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 22nd day of August, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
--	--

SUBPOENA DUCES TECUM

TO: Robert Niemann
Care of:
Laurie Oberembt, Esq.
U.S. Department of Justice
601 D Street, N.W.
Washington, D.C. 20004

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

Centers for Medicare and Medicaid Services
7111 Security Boulevard, Room B-310
Baltimore, Maryland 21244

September 14, 2007 at 9:00 AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see attached Exhibit A

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorney for Defendant Abbott Laboratories, Inc.

August 22, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: R. Christopher Cook, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data

compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT T-1

Baltimore, MD

Page 1

1
2 UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF MASSACHUSETTS

4 - - - - -x

5 IN RE: PHARMACEUTICAL : MDL NO. 1456
6 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION
7 PRICE LITIGATION : 01-CV-12257-PBS
8 THIS DOCUMENT RELATES TO :
9 U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris
10 the Florida Keys, Inc. :
11 v. :
12 Abbott Laboratories, Inc., : Chief Magistrate
13 No. 06-CV-11337-PBS : Judge Marianne B.

14 - - - - -x Bowler

15 Baltimore, Maryland

16 Friday, September 14, 2007

17
18 Videotaped Telephone Deposition of ROBERT NIEMANN
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Niemann, Robert

September 14, 2007

Baltimore, MD

<p style="text-align: right;">Page 2</p> <p>1 IN THE CIRCUIT COURT OF</p> <p>2 MONTGOMERY COUNTY, ALABAMA</p> <p>3 -----X</p> <p>4 STATE OF ALABAMA, :</p> <p>5 Plaintiff, :</p> <p>6 vs. : Case No.: CV-05-219</p> <p>7 ABBOTT LABORATORIES, INC., : Judge Charles Price</p> <p>8 et al. :</p> <p>9 Defendants. :</p> <p>10 -----X</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>2 STATE OF HAWAII</p> <p>3 -----X</p> <p>4 STATE OF HAWAII, :</p> <p>5 Plaintiff, :</p> <p>6 vs. :Case No. 06-10720-04-EEH</p> <p>7 ABBOTT LABORATORIES, et al., :Judge Eden Elizabeth</p> <p>8 Defendants. :Hifo</p> <p>9 -----X</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT</p> <p>2 IN AND FOR LEON COUNTY, FLORIDA</p> <p>3 THE STATE OF FLORIDA</p> <p>4 ex rel.</p> <p>5 -----X</p> <p>6 VEN-A-CARE OF THE FLORIDA :</p> <p>7 KEYS, INC., a Florida :</p> <p>8 Corporation, by and through its :</p> <p>9 principal officers and directors, :</p> <p>10 ZACHARY T. BENTLEY and :</p> <p>11 T. MARK JONES, :</p> <p>12 Plaintiffs, :</p> <p>13 vs. : Civil Action</p> <p>14 MYLAN LABORATORIES INC.; MYLAN : No.: 98-3032G</p> <p>15 PHARMACEUTICALS INC.; NOVOPHARM : Judge: William</p> <p>16 LTD., SCHEIN PHARMACEUTICAL, INC.;; L. Gary</p> <p>17 TEVA PHARMACEUTICAL INDUSTRIES :</p> <p>18 LTD., TEVA PHARMACEUTICAL USA; :</p> <p>19 and WATSON PHARMACEUTICALS, INC., :</p> <p>20 Defendants. :</p> <p>21 -----X</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 COMMONWEALTH OF KENTUCKY</p> <p>2 FRANKLIN CIRCUIT COURT - DIVISION II</p> <p>3 CIVIL ACTION NO. 03-CI-1134</p> <p>4 -----X</p> <p>5 COMMONWEALTH OF KENTUCKY :</p> <p>6 Plaintiff, : Judge Crittenden</p> <p>7 vs. :</p> <p>8 ABBOTT LABORATORIES, INC. :</p> <p>9 Defendant. :</p> <p>10 -----X</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

2 (Pages 2 to 5)

Niemann, Robert

September 14, 2007

Baltimore, MD

<p style="text-align: right;">Page 6</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF</p> <p>2 COUNTY OF RICHMOND : COMMON PLEAS</p> <p>3 : FOR THE FIFTH</p> <p>4 ----- X JUDICIAL DISTRICT</p> <p>5 STATE OF SOUTH CAROLINA :</p> <p>6 and HENRY D. McMASTER in: Case No. 2006-CP-40-4394</p> <p>7 his official capacity as:</p> <p>8 Attorney General for the:</p> <p>9 State of South Carolina :</p> <p>10 Plaintiffs, :</p> <p>11 vs. :</p> <p>12 ABBOTT LABORATORIES :</p> <p>13 Defendant. :</p> <p>14 ----- X</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 8</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On Behalf of the United States of America:</p> <p>4 LAURIE A. OBEREMBT, ESQ.</p> <p>5 U.S. Department of Justice</p> <p>6 Civil Division</p> <p>7 601 D Street, Northwest</p> <p>8 P.O. Box 261</p> <p>9 Washington, D.C. 20044</p> <p>10</p> <p>11 On Behalf of the U.S. Department of</p> <p>12 Health and Human Services:</p> <p>13 LESLIE STAFFORD, ESQ.</p> <p>14 U.S. Department of Health and Human Services</p> <p>15 OGC, CMS Division</p> <p>16 Mail Stop C2-05-23</p> <p>17 7500 Security Boulevard</p> <p>18 Baltimore, MD 21244-1850</p> <p>19 (410) 786-9655</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY</p> <p>2 Branch 9</p> <p>3 ----- X</p> <p>4 STATE OF WISCONSIN, :</p> <p>5 Plaintiff, :Case No. 04-CV-1709</p> <p>6 vs. :</p> <p>7 AMGEN, INC., et al, :</p> <p>8 Defendants. :</p> <p>9 ----- X</p> <p>10 Baltimore, Maryland</p> <p>11 Friday, September 14, 2007</p> <p>12 Videotaped Telephone Deposition of ROBERT</p> <p>13 NIEMANN, a witness herein, called for examination by</p> <p>14 counsel for Abbott Laboratories in the above-entitled</p> <p>15 matter, pursuant to subpoena, the witness being duly</p> <p>16 sworn by SUSAN L. CIMINELLI, a Notary Public in and</p> <p>17 for the State of Maryland, taken at the offices of</p> <p>18 Centers for Medicare & Medicaid Services, 7411</p> <p>19 Security Boulevard, Baltimore, Maryland, at 9:18</p> <p>20 a.m., and the proceedings being taken down by</p> <p>21 Stenotype by SUSAN L. CIMINELLI, CRR, RPR, and</p> <p>22 transcribed under her direction.</p>	<p style="text-align: right;">Page 9</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On behalf of the State of California: (Via telephone)</p> <p>4 RANDAL GLASER, ESQ.</p> <p>5 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>6 Office of the Attorney General</p> <p>7 California Department of Justice</p> <p>8 (619) 688-6099</p> <p>9</p> <p>10 On Behalf of the State of Alabama:</p> <p>11 ROGER BATES, ESQ.</p> <p>12 Hand Arendall, L.L.C.</p> <p>13 1200 Park Place Tower</p> <p>14 2001 Park Place North</p> <p>15 Birmingham, AL 35203</p> <p>16 (205) 502-0105</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

3 (Pages 6 to 9)

Niemann, Robert

September 14, 2007

Baltimore, MD

<p style="text-align: right;">Page 10</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On Behalf of the State of Florida: (Via telephone)</p> <p>4 MARY S. MILLER, ESQ.</p> <p>5 Office of the Attorney General of Florida</p> <p>6 PL-01, The Capitol</p> <p>7 Tallahassee, FL 32399-1050</p> <p>8 (850) 414-3600</p> <p>9</p> <p>10 On Behalf of Ven-a-Care:</p> <p>11 JOSEPH C. WILSON, ESQ.</p> <p>12 Cotchett, Pitre & McCarthy</p> <p>13 San Francisco Airport Office Center</p> <p>14 840 Malcolm Road</p> <p>15 Burlingame, CA 94010</p> <p>16 (650) 697-6000</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 12</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On Behalf of Sandoz, Inc.: (Via telephone)</p> <p>4 AMY KATCHERIAN, ESQ.</p> <p>5 White & Case LLP</p> <p>6 1155 Avenue of the Americas</p> <p>7 New York, New York 10036-2787</p> <p>8 (212) 819-8254</p> <p>9</p> <p>10 On behalf New York City & All NY Counties other</p> <p>11 than Orange & Nassau:</p> <p>12 AARON D. HOVAN, ESQ.</p> <p>13 Kirby McInerney LLP</p> <p>14 830 Third Avenue</p> <p>15 New York, NY 10022</p> <p>16 (212) 371-6600</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 11</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On Behalf of Schering-Plough Corporation and</p> <p>4 Schering Corporation and Warrick Pharmaceuticals</p> <p>5 Corporation:</p> <p>6 SCOTT JONES, ESQ.</p> <p>7 Locke Liddell & Sapp</p> <p>8 2200 Ross Avenue, Suite 2200</p> <p>9 Dallas, Texas 75201</p> <p>10 (214) 740-8725</p> <p>11</p> <p>12 On Behalf of Abbott Laboratories:</p> <p>13 CHRISTOPHER COOK, ESQ.</p> <p>14 Jones Day</p> <p>15 51 Louisiana Avenue, Northwest</p> <p>16 Washington, D.C. 20001</p> <p>17 (202) 879-3939</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 13</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On behalf of the States of Wisconsin, Kentucky,</p> <p>4 Illinois, Missouri: (Via telephone)</p> <p>5 P. JEFFREY ARCHIBALD, ESQ.</p> <p>6 Archibald Consumer Law Office</p> <p>7 1914 Monroe Street</p> <p>8 Madison, WI</p> <p>9 661-8855</p> <p>10</p> <p>11 On Behalf of Bristol-Myers Squibb:</p> <p>12 (Via telephone)</p> <p>13 SANDHYA KAWATRA, ESQ.</p> <p>14 Hogan & Hartson LLP</p> <p>15 875 Third Avenue</p> <p>16 New York, New York 10022</p> <p>17 (212) 918-3528</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

4 (Pages 10 to 13)

Niemann, Robert

September 14, 2007

Baltimore, MD

<p style="text-align: right;">Page 14</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On Behalf of Dey, Inc. and Dey, L.P. and Mylan:</p> <p>4 SARAH L. REID, ESQ.</p> <p>5 Kelley Drye & Warren LLP</p> <p>6 101 Park Avenue</p> <p>7 New York, New York 10178</p> <p>8 (212) 808-7811</p> <p>9</p> <p>10 On Behalf of Aventis Pharmaceuticals:</p> <p>11 JENNIFER H. McGEE, ESQ.</p> <p>12 Shook, Hardy & Bacon LLP</p> <p>13 Hamilton Square</p> <p>14 800 14th Street, Northwest, Suite 800</p> <p>15 Washington, D.C. 20005-2004</p> <p>16 (202) 783-8400</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 16</p> <p>1 C O N T E N T S</p> <p>2 ROBERT NIEMANN EXAMINATION</p> <p>3 By Mr. Cook 20</p> <p>4</p> <p>5 Afternoon session - 137</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 ABBOTT EXHIBIT NO. PAGE</p> <p>9 Exhibit Abbott 307-34,157 138</p> <p>10 Exhibit Abbott 308-Memorandum HHD063-0388 to 0434 165</p> <p>11 Exhibit Abbott 309-7/25/96 Letter HHD063-0377 to 78 180</p> <p>12 Exhibit Abbott 310-8/5/96 Letter HHC014-0172 to 0189 180</p> <p>13 Exhibit Abbott 311-4/22/96 Note Seabolt HHC026-0240 248</p> <p>14 Exhibit Abbott 312-12/16/97 Meeting Sign-in sheet 258</p> <p>15 HHD051-0516</p> <p>16 Exhibit Abbott 313-8/4/2000 Memorandum HHD042-0423 271</p> <p>17 to 0424</p> <p>18 Exhibit Abbott 314-HHC902-0001 274</p> <p>19 Exhibit Abbott 315-Email from Sheridan, 2/20/97 292</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 15</p> <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 On Behalf of Roxane Laboratories and Boehringer</p> <p>4 Ingelheim: (Via telephone)</p> <p>5 ERIC GORTNER, ESQ.</p> <p>6 Kirkland & Ellis LLP</p> <p>7 200 East Randolph Drive</p> <p>8 Chicago, Illinois 60601</p> <p>9 (312) 861-2286</p> <p>10</p> <p>11 On behalf of Baxter Health Care: (Via telephone)</p> <p>12 MERLE M. DELANCEY, ESQ.</p> <p>13 Dickstein Shapiro LLP</p> <p>14 1825 Eye Street, N.W.</p> <p>15 Washington, D.C. 20006</p> <p>16 (202) 420-2282</p> <p>17</p> <p>18 ALSO PRESENT:</p> <p>19 Ellen Hebert, Videographer</p> <p>20 Emily Watson</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 17</p> <p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Good morning. This is</p> <p>3 the video deposition of Robert Niemann taken by</p> <p>4 counsel for the Defendant in the matter of In Re</p> <p>5 Pharmaceutical Industry Average Wholesale Price</p> <p>6 litigation, in the United States District Court for</p> <p>7 the District of Massachusetts, MDL number 1456, Civil</p> <p>8 Action Number 01-CV-12257-PBS, held in the offices of</p> <p>9 Centers for Medicare & Medicaid Services at 7111</p> <p>10 Security Boulevard, Baltimore, Maryland on this date,</p> <p>11 Friday, September 14th, 2007, at the time indicated</p> <p>12 on the video screen, 9:18 a.m.</p> <p>13 My name is Ellen Hebert. I'm the legal</p> <p>14 video specialist. The court reporter is Sue</p> <p>15 Ciminelli. We are employed by Henderson Legal</p> <p>16 Services. Counsel will now introduce themselves and</p> <p>17 the parties they represent, after which the court</p> <p>18 reporter will swear in the witness.</p> <p>19 MR. COOK: Christopher Cook for Abbott</p> <p>20 Laboratories from Jones Day. And I'm accompanied by</p> <p>21 a project assistant, Emily Watson.</p> <p>22 MS. REID: Sarah Reid from Kelley Drye on</p>

5 (Pages 14 to 17)

Baltimore, MD

Page 300

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 - - - - -x

4 In re: PHARMACEUTICALS INDUSTRY : MDL No. 1456

5 AVERAGE WHOLESALE PRICE : Civil Action

6 LITIGATION : 01-CV-12257-PBS

7 _____:

8 THIS DOCUMENT RELATES TO: : Judge Patti B.

9 United States of America, ex : Saris

10 rel. Ven-a-Care of the Florida :

11 Keys, Inc., :

12 vs. : Chief Magistrate

13 ABBOTT LABORATORIES, INC., : Judge Marianne

14 No. 06-11337-PBS : B. Bowler

15 - - - - -x

16 Baltimore, Maryland

17 Thursday, October 11, 2007

18
19
20 Continued Videotaped Deposition of ROBERT NIEMANN

21 Volume 2

<p style="text-align: right;">Page 301</p> <p>1 IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA</p> <p>2</p> <p>3 ----- x</p> <p>4 STATE OF ALABAMA, :</p> <p>5 Plaintiff, :</p> <p>6 vs. : Case No.: CV-05-219</p> <p>7 ABBOTT LABORATORIES, INC., : Judge Charles Price</p> <p>8 et al., :</p> <p>9 Defendants. :</p> <p>10 ----- x</p> <p>11</p> <p>12</p> <p>13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>14 STATE OF HAWAII</p> <p>15</p> <p>16 ----- x</p> <p>17 STATE OF HAWAII, :</p> <p>18 Plaintiff, : Case No.</p> <p>19 vs. : 06-10720-04-EEH</p> <p>20 ABBOTT LABORATORIES, et al., : Judge Eden</p> <p>21 Defendants. : Elizabeth Hifo</p> <p>22 ----- x</p>	<p style="text-align: right;">Page 303</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT</p> <p>2 IN AND FOR LEON COUNTY, FLORIDA</p> <p>3 THE STATE OF FLORIDA</p> <p>4 ex rel.</p> <p>5 ----- x</p> <p>6 VEN-A-CARE OF THE FLORIDA KEYS, :</p> <p>7 INC., a Florida Corporation, by :</p> <p>8 and through its principal officers :</p> <p>9 and directors, ZACHARY T. BENTLEY :</p> <p>10 and T. MARK JONES, :</p> <p>11 Plaintiffs, :</p> <p>12 vs. : Civil Action</p> <p>13 MYLAN LABORATORIES INC., MYLAN : No.: 98-3032G</p> <p>14 PHARMACEUTICALS INC., NOVOPHARM : Judge:</p> <p>15 LTD., SCHEIN PHARMACEUTICAL, INC., : William L.</p> <p>16 TEVA PHARMACEUTICAL INDUSTRIES : Gary</p> <p>17 LTD., TEVA PHARMACEUTICAL USA; :</p> <p>18 and WATSON PHARMACEUTICALS, INC., :</p> <p>19 Defendants, :</p> <p>20 ----- x</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 302</p> <p>1 COMMONWEALTH OF KENTUCKY</p> <p>2 FRANKLIN CIRCUIT COURT - DIVISION II</p> <p>3 CIVIL ACTION NO. 03-CI-1134</p> <p>4</p> <p>5 ----- x</p> <p>6 COMMONWEALTH OF KENTUCKY, :</p> <p>7 Plaintiff, :</p> <p>8 vs. : Judge Crittenden</p> <p>9 ABBOTT LABORATORIES, INC., :</p> <p>10 Defendant. :</p> <p>11 ----- x</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 304</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF</p> <p>2 COUNTY OF RICHMOND : COMMON PLEAS</p> <p>3 : FOR THE FIFTH</p> <p>4 : JUDICIAL DISTRICT</p> <p>5 -----x</p> <p>6 STATE OF SOUTH CAROLINA, :</p> <p>7 and HENRY D. McMASTER in his :</p> <p>8 official capacity as Attorney :</p> <p>9 General for the State of South :</p> <p>10 Carolina, :</p> <p>11 Plaintiffs, :</p> <p>12 vs. : Case No.</p> <p>13 ABBOTT LABORATORIES, : 2006-CP-40-4394</p> <p>14 Defendant. :</p> <p>15 -----x</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 305</p> <p>1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY</p> <p>2 Branch 9</p> <p>3 ----- x</p> <p>4 STATE OF WISCONSIN, :</p> <p>5 Plaintiff, :</p> <p>6 vs. : Case No. 04-CV-1709</p> <p>7 AMGEN, INC., et al., :</p> <p>8 Defendants. :</p> <p>9 ----- x</p> <p>10 Baltimore, Maryland</p> <p>11 Thursday, October 11, 2007</p> <p>12 Continued Videotaped Deposition of ROBERT</p> <p>13 NIEMANN, a witness herein, called for examination by</p> <p>14 counsel for Abbott Laboratories in the</p> <p>15 above-entitled matter, pursuant to notice, the</p> <p>16 witness being duly sworn by KAREN YOUNG, a Notary</p> <p>17 Public in and for the State of Maryland, taken at</p> <p>18 the offices of the Centers for Medicare & Medicaid</p> <p>19 Services, 7111 Security Boulevard, Baltimore,</p> <p>20 Maryland, at 9:25 a.m. on Thursday, October 11,</p> <p>21 2007, and the proceedings being taken down by</p> <p>22 Stenotype and transcribed by KAREN YOUNG.</p>	<p style="text-align: right;">Page 307</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of the State of Alabama:</p> <p>4</p> <p>5 ROGER L. BATES, ESQ.</p> <p>6 Hand Arendall L.L.C.</p> <p>7 1200 Park Place Tower</p> <p>8 2001 Park Place North</p> <p>9 Birmingham, Alabama 35203</p> <p>10 rbates@handarendall.com</p> <p>11 (205) 502-0105</p> <p>12</p> <p>13 On Behalf of Roxane Laboratories and</p> <p>14 Boehringer Ingelheim:</p> <p>15</p> <p>16 ERIC GORTNER, ESQ.</p> <p>17 Kirkland & Ellis LLP</p> <p>18 200 East Randolph Drive</p> <p>19 Chicago, Illinois 60601</p> <p>20 egortner@kirkland.com</p> <p>21 (312) 861-2285</p> <p>22</p>
<p style="text-align: right;">Page 306</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On Behalf of the United States of America:</p> <p>4</p> <p>5 LAURIE A. OBEREMBT, ESQ.</p> <p>6 U.S. Department of Justice</p> <p>7 Civil Division</p> <p>8 Commercial Litigation - Fraud Section</p> <p>9 601 D Street, Northwest</p> <p>10 P.O. Box 261</p> <p>11 Washington, D.C. 20044</p> <p>12 (202) 514-3345</p> <p>13</p> <p>14 On Behalf of the State of California:</p> <p>15 (by telephone)</p> <p>16</p> <p>17 RITA HANSCOM, ESQ.</p> <p>18 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>19 Office of the Attorney General</p> <p>20 1455 Frazee Road, Suite 305</p> <p>21 San Diego, California 92108</p> <p>22 (619) 688-6831</p>	<p style="text-align: right;">Page 308</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Schering-Plough Corporation and</p> <p>4 Schering Corporation and Warrick</p> <p>5 Pharmaceuticals Corporation:</p> <p>6 (by telephone)</p> <p>7</p> <p>8 C. SCOTT JONES, ESQ.</p> <p>9 Locke Lord Bissell & Liddell LLP</p> <p>10 2200 Ross Avenue, Suite 2200</p> <p>11 Dallas, Texas 75201</p> <p>12 sjones@lockeliddell.com</p> <p>13 (214) 740-8761</p> <p>14</p> <p>15 On Behalf of Abbott Laboratories:</p> <p>16</p> <p>17 CHRISTOPHER COOK, ESQ.</p> <p>18 Jones Day</p> <p>19 51 Louisiana Avenue, Northwest</p> <p>20 Washington, D.C. 20001</p> <p>21 ccook@jonesday.com</p> <p>22 (202) 879-3939</p>

<p style="text-align: right;">Page 309</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Baxter Health Care:</p> <p>4 (by telephone)</p> <p>5</p> <p>6 SHAMIR PATEL, ESQ.</p> <p>7 Dickstein Shapiro LLP</p> <p>8 1825 Eye Street, Northwest</p> <p>9 Washington, D.C. 20006-5403</p> <p>10 patels@dicksteinshapiro.com</p> <p>11 (202) 420-2728</p> <p>12</p> <p>13 On Behalf of Hawaii, Kentucky, Wisconsin, and</p> <p>14 New York Counties in the MDL 1456</p> <p>15 except Nassau and Orange:</p> <p>16</p> <p>17 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>18 Winget-Hernandez LLC</p> <p>19 3112 Windsor Road, #228</p> <p>20 Austin, Texas 78703</p> <p>21 michael@winget-hernandez.com</p> <p>22 (512) 474-4095</p>	<p style="text-align: right;">Page 311</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Aventis Pharmaceuticals:</p> <p>4</p> <p>5 JENNIFER H. McGEE, ESQ.</p> <p>6 Shook, Hardy & Bacon LLP</p> <p>7 Hamilton Square</p> <p>8 800 14th Street, Northwest, Suite 800</p> <p>9 Washington, D.C. 20005-2004</p> <p>10 (202) 783-8400</p> <p>11</p> <p>12 On Behalf of the Centers for Medicare & Medicaid</p> <p>13 Services:</p> <p>14</p> <p>15 LESLIE STAFFORD, ESQ.</p> <p>16 Centers for Medicare & Medicaid Services</p> <p>17 Office of the General Counsel</p> <p>18 7500 Security Boulevard, C2-05-23</p> <p>19 Baltimore, Maryland 21244</p> <p>20 (410) 786-9655</p> <p>21</p> <p>22 (CONTINUED)</p>
<p style="text-align: right;">Page 310</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of Sandoz, Inc.:</p> <p>4 (by telephone)</p> <p>5</p> <p>6 BRIAN BANK, ESQ.</p> <p>7 White & Case LLP</p> <p>8 1155 Avenue of the Americas</p> <p>9 New York, New York 10036-2787</p> <p>10 bbank@whitecase.com</p> <p>11 (212) 819-2504</p> <p>12</p> <p>13 On Behalf of Bristol-Myers Squibb:</p> <p>14 (by telephone)</p> <p>15</p> <p>16 SANDHYA KAWATRA, ESQ.</p> <p>17 Hogan & Hartson</p> <p>18 875 Third Avenue</p> <p>19 New York, New York 10022</p> <p>20 (212) 918-3528</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 312</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On Behalf of the State of Florida</p> <p>4 (by telephone)</p> <p>5</p> <p>6 MARY S. MILLER, ESQ.</p> <p>7 Office of the Attorney General of Florida</p> <p>8 PL-01 The Capitol</p> <p>9 Tallahassee, Florida 32399-1050</p> <p>10 (850) 414-3600</p> <p>11</p> <p>12 On Behalf of Dey, Inc. and Dey, L.P. and</p> <p>13 Mylan:</p> <p>14</p> <p>15 SARAH L. REID, ESQ.</p> <p>16 Kelley Drye & Warren LLP</p> <p>17 101 Park Avenue</p> <p>18 New York, New York 10178</p> <p>19 (212) 808-7811</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 Ellen Hebert, Videographer</p>

<p style="text-align: right;">Page 313</p> <p style="text-align: center;">C O N T E N T S</p> <p>1</p> <p>2</p> <p>3 THE WITNESS: ROBERT NIEMANN PAGE</p> <p>4 Examination By Mr. Cook 319</p> <p>5</p> <p>6 E X H I B I T S</p> <p>7 NUMBER DESCRIPTION PAGE</p> <p>8 Exhibit Abbott 334-King letter to Thurmond,</p> <p>9 5/6/96..... 331</p> <p>10 Exhibit Abbott 335-Bentley letter to Vladeck,</p> <p>11 10/2/06..... 378</p> <p>12 Exhibit Abbott 336-Schumaker letter to Bentley,</p> <p>13 12/16/96..... 387</p> <p>14 Exhibit Abbott 337-Bentley and Jones letter to</p> <p>15 Vladeck, 6/12/97..... 392</p> <p>16 Exhibit Abbott 338-Stark letter to DeParle,</p> <p>17 8/22/97..... 395</p> <p>18 Exhibit Abbott 339-Edwards letter to Bentley,</p> <p>19 9/10/97..... 399</p> <p>20 Exhibit Abbott 340-Report of Contact, 11/12/96. 403</p> <p>21 Exhibit Abbott 341-Draft Language Request,</p> <p>22 10/31/96..... 409</p>	<p style="text-align: right;">Page 315</p> <p style="text-align: center;">E X H I B I T S (CONTINUED)</p> <p>1</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit Abbott 352-HCFA Change Management</p> <p>4 System Change Request Form.. 504</p> <p>5 Exhibit Abbott 353-Niemann e-mail to Hoppa,</p> <p>6 6/12/00..... 512</p> <p>7 Exhibit Abbott 354-Weisenberger letter to</p> <p>8 Shalala, 6/22/00..... 517</p> <p>9 Exhibit Abbott 355-Niemann e-mail to Eiler et</p> <p>10 al., 9/28/00..... 520</p> <p>11 Exhibit Abbott 356-Contact Report, 6/14/00..... 528</p> <p>12 Exhibit Abbott 357-Eiler letter to Niemann,</p> <p>13 10/15/00..... 528</p> <p>14 Exhibit Abbott 358-Spalding e-mail to Niemann</p> <p>15 et al., 12/1/03..... 547</p> <p>16</p> <p>17 - - -</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 314</p> <p style="text-align: center;">E X H I B I T S (CONTINUED)</p> <p>1</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit Abbott 342-Fanning letter to Niemann,</p> <p>4 11/13/96, with post-it..... 409</p> <p>5 Exhibit Abbott 343-Fanning letter to Niemann,</p> <p>6 11/13/96..... 410</p> <p>7 Exhibit Abbott 344-Fanning fax to Niemann,</p> <p>8 5/29/97..... 410</p> <p>9 Exhibit Abbott 345-Document, Drug Pricing</p> <p>10 Error, HHC007-0464..... 428</p> <p>11 Exhibit Abbott 346-Niemann e-mail to Carpenter,</p> <p>12 10/30/97..... 428</p> <p>13 Exhibit Abbott 347-Niemann e-mail to Vogel,</p> <p>14 11/14/97..... 428</p> <p>15 Exhibit Abbott 348-Document dated 10/8/98,</p> <p>16 HHC906-0124 - HHC906-0125... 440</p> <p>17 Exhibit Abbott 349-Handwritten Notes, 12/8,</p> <p>18 HHC007-0378 - HHC007-0379... 446</p> <p>19 Exhibit Abbott 350-Yeh e-mail to Rogan et al.,</p> <p>20 11/21/01..... 455</p> <p>21 Exhibit Abbott 351-Stephens fax to Niemann,</p> <p>22 4/7/00..... 502</p>	<p style="text-align: right;">Page 316</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>1</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. This</p> <p>4 is Volume 2 of the continued video deposition of</p> <p>5 Robert Niemann taken by counsel for the defendant</p> <p>6 in the matter of In Re Pharmaceutical Industry</p> <p>7 Average Wholesale Price Litigation. This</p> <p>8 document relates to U.S. ex rel. Ven-a-Care of</p> <p>9 the Florida Keys, Inc. versus Abbott</p> <p>10 Laboratories, Inc. in the United States District</p> <p>11 Court for the District of Massachusetts, Civil</p> <p>12 Action Number 01-CV-12257-PBS, held in the</p> <p>13 Offices of Centers for Medicare & Medicaid</p> <p>14 Services at 7111 Security Boulevard, Baltimore,</p> <p>15 Maryland, on this date, Thursday October 11th,</p> <p>16 2007, at the time indicated on the video screen,</p> <p>17 a.m.</p> <p>18 My name is Ellen Hebert. I am the</p> <p>19 legal video specialist. The court reporter is</p> <p>20 Karen Young. We are employed by Henderson Legal</p> <p>21 Services. Counsel will now introduce themselves</p> <p>22 and the parties they represent, after which the</p>

EXHIBIT U



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF LISA PARKER

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Lisa Parker.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of the Center for Medicare & Medicaid Services, 7111 Security Boulevard, Baltimore, Maryland 21244 on June 6, 2007 beginning at 9:00 a.m. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: May 25, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF LISA PARKER to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 25th day of May, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

EXHIBIT U-1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -x

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:

6 PRICE LITIGATION : 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO :

8 U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris

9 the Florida Keys, Inc. v. :

10 Abbott Laboratories, Inc., : Chief Magistrate

11 No. 06-CV-11337-PBS : Judge Marianne B.

12 - - - - -x Bowler

13 IN THE CIRCUIT COURT OF

14 MONTGOMERY COUNTY, ALABAMA

15 - - - - -x

16 STATE OF ALABAMA, :

17 Plaintiff, :

18 vs. : Case No.: CV-05-219

19 ABBOTT LABORATORIES, INC., : Judge Charles Price

20 et al., :

21 Defendants.:

22 - - - - -x

Parker, Lisa

June 6, 2007

Baltimore, MD

Page 2

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
 2 IN AND FOR LEON COUNTY, FLORIDA
 3
 4 THE STATE OF FLORIDA
 5 ex rel.
 6 ----- x
 7 VEN-A-CARE OF THE FLORIDA :
 8 KEYS, INC., a Florida :
 9 Corporation, by and through its :
 10 principal officers and directors, :
 11 ZACHARY T. BENTLEY and :
 12 T. MARK JONES, :
 13 Plaintiffs, :
 14 vs. : Civil Action
 15 MYLAN LABORATORIES INC.; MYLAN : No.: 98-3032G
 16 PHARMACEUTICALS INC.; NOVOPHARM : Judge: William
 17 LTD., SCHEIN PHARMACEUTICAL, INC.; : L. Gary
 18 TEVA PHARMACEUTICAL INDUSTRIES :
 19 LTD., TEVA PHARMACEUTICAL USA; :
 20 and WATSON PHARMACEUTICALS, INC., :
 21 Defendants, :
 22 ----- x

Page 3

1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
 2 STATE OF MISSOURI
 3 ----- x
 4 STATE OF MISSOURI, ex rel., :
 5 JEREMIAH W. (JAY) NIXON, :
 6 Attorney General, :
 7 and :
 8 MISSOURI DEPARTMENT OF SOCIAL :
 9 SERVICES, DIVISION OF MEDICAL : Case No.:
 10 SERVICES, : 054-1216
 11 Plaintiffs, : Division No. 31
 12 vs. :
 13 DEY INC., DEY, L.P., MERCK KGaA, :
 14 EMD, INC., WARRICK :
 15 PHARMACEUTICALS CORPORATION, :
 16 SCHERING-PLOUGH CORPORATION, and :
 17 SCHERING CORPORATION, :
 18 Defendants, :
 19 ----- x
 20
 21
 22

Page 4

1 Videotaped Deposition of LISA PARKER, a
 2 witness herein, called for examination by counsel
 3 for Abbott Laboratories in the above-entitled
 4 matter, pursuant to notice, the witness being duly
 5 sworn by Robert M. Jakupciak, a Notary Public in
 6 and for the District of Columbia, taken at the
 7 offices of Center for Medicare & Medicaid Services,
 8 7111 Security Blvd., Baltimore, Maryland, 21244, at
 9 2:20 p.m., on June 6, 2007, and the proceedings
 10 being taken down by Stenotype by Robert M.
 11 Jakupciak, RPR.
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22

Page 5

1 APPEARANCES:
 2
 3 On behalf of the United States of America:
 4
 5 ANA MARIA MARTINEZ, ESQUIRE
 6 U.S. Department of Justice
 7 99 N.E. 4th Street
 8 Miami, Florida 33132
 9 (305) 961-9431
 10
 11 On behalf of the U.S. Department of
 12 Health and Human Services:
 13
 14 TROY A. BARSKY, ESQUIRE
 15 U.S. Department of Health and
 16 Human Services
 17 C2-05-23
 18 7500 Security Blvd.
 19 Baltimore, Maryland 21244-1850
 20 (410) 786-8873
 21
 22 (CONTINUED)

2 (Pages 2 to 5)

Parker, Lisa

June 6, 2007

Baltimore, MD

<p style="text-align: right;">Page 6</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of Abbott Laboratories:</p> <p>4</p> <p>5 LOUIS P. GABEL, ESQUIRE</p> <p>6 Jones Day</p> <p>7 51 Louisiana Avenue, N.W.</p> <p>8 Washington, D.C. 20001</p> <p>9 (202) 879-5411</p> <p>10</p> <p>11 (The following attorneys present by phone.)</p> <p>12</p> <p>13 On behalf of Dey Companies and Mylan:</p> <p>14</p> <p>15 CLIFFORD KATZ, ESQUIRE</p> <p>16 Kelly Drye & Warren LLP</p> <p>17 101 Park Avenue</p> <p>18 New York, New York 10178</p> <p>19 (212) 808-7609</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 8</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of KMS New York Counties:</p> <p>4</p> <p>5 MICHAEL WINGET-HERNANDEZ, ESQUIRE</p> <p>6 Winget-Hernandez, LLC</p> <p>7 3112 Windsor Road, #228</p> <p>8 Austin, Texas 78703</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Also Present</p> <p>15 Videographer: Conway Barker</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 On behalf of Roxane Laboratories and</p> <p>4 Boehringer-Ingelheim and affiliated entities:</p> <p>5</p> <p>6 JARED THOMAS HECK, ESQUIRE</p> <p>7 Kirkland & Ellis LLP</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601</p> <p>10 (312) 469-7087</p> <p>11</p> <p>12 On behalf of Baxter Healthcare Corporation:</p> <p>13</p> <p>14 TINA DUCHARME REYNOLDS, ESQUIRE</p> <p>15 Dickstein Shapiro LLP</p> <p>16 1825 Eye Street, N.W.</p> <p>17 Washington, D.C. 20006</p> <p>18 (202) 420-4114</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p style="text-align: right;">Page 9</p> <p>1 C O N T E N T S</p> <p>2</p> <p>3 THE WITNESS: LISA PARKER PAGE</p> <p>4 Examination By Mr. Gabel..... 012</p> <p>5</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9</p> <p>10 NUMBER DESCRIPTION PAGE</p> <p>11 Exhibit Abbott 226-Request for Production of</p> <p>12 Documents..... 022</p> <p>13 Exhibit Abbott 227-Abbott's Second set of</p> <p>14 production..... 023</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

3 (Pages 6 to 9)

EXHIBIT V



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO
ALL CASES IN MDL NO. 1456.¹

)
) MDL NO. 1456
)
) CIVIL ACTION: 01-CV-12257-PBS
)
) Judge Patti B. Saris
)
) Chief Magistrate Judge Marianne B. Bowler
)
)

CROSS-NOTICE OF DEPOSITION OF LARRY REED

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively, “Abbott”) hereby cross-notices the deposition of Larry Reed for purposes of the above-captioned action. This deposition has been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida, Case No. 06-21303-CIV-ASG, and now part of MDL 1456 in the United States District Court for the District of Massachusetts (the “DOJ suit”). A copy of the deposition notice in the DOJ suit is attached as Exhibit A.

Mr. Reed’s deposition will take place at Hogan & Hartson, 111 South Calvert Street, Baltimore, Maryland on September 26 and 27, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The deposition will take place before a notary public, or any other officer authorized to administer oaths. The deposition will be taken upon cross-examination.

The deposition will be recorded by stenographic and/or sound and visual means. Arrangements will be made so that counsel may participate by telephone if they wish. The

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: September 14, 2007

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, IL 60601

Tel: (312) 782-3939

Fax: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITION OF LARRY REED to be served upon all counsel of record electronically via LexisNexis, this 14th day of September, 2007.

/s/ Jeremy P. Cole

Jeremy P. Cole

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF LARRY REED

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Larry Reed.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Hogan & Hartson, 111 South Calvert Street, Baltimore, Maryland on September 26 and 27, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: September 13, 2007

/s/ David S. Torborg

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, Illinois 60601

Telephone: (312) 782-3939

Facsimile: (312) 782-8585

R. Christopher Cook

David S. Torborg

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51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

Telephone: (202) 879-3939

Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF LARRY REED to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 13th day of September, 2007.

/s/ David S. Torborg
David S. Torborg

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p align="center">Pending in:</p> <p align="center">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
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SUBPOENA DUCES TECUM

TO: Larry Reed
Care of:
Ana Maria Martinez, Esq.
United States Attorney's Office
99 N.E. 4 Street, 3rd Floor
Miami, Florida 33132

☐ **YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.**

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ **YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

PLACE OF DEPOSITION Hogan & Hartson 111 South Calvert Street Baltimore, MD 21202	DATE AND TIME September 26 and 27, 2007 at 9:00 AM
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☒ **YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):**


Please see attached Exhibit A

PLACE	DATE AND TIME
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☐ **YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.**

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Defendant Abbott Laboratories, Inc.	DATE September 13, 2007
--	----------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice ("DOJ") or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data

compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT V-1

Reed, Larry

September 26, 2007

Baltimore, MD

Page 1

1 UNITED STATES DISTRICT COURT

2 OF THE DISTRICT OF MASSACHUSETTS

3 -----x

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

6 PRICE LITIGATION : 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO :

8 U.S. ex rel. Ven-A-Care of : Judge Patti B.

9 The Florida Keys, Inc., : Saris

10 Plaintiff, :

11 vs. :

12 ABBOTT LABORATORIES, INC., : Chief Magistrate

13 No. 06-CV-11337-PBS : Judge Marianne B.

14 Defendants. : Bowler

15 -----x

16 VOLUME I

17 Baltimore, Maryland

18 Wednesday, September 26, 2007

19 Videotape Deposition of:

20 LARRY REED,

21 the witness, was called for examination by counsel

22 for the Defendants, pursuant to notice, commencing

Reed, Larry

September 26, 2007

Baltimore, MD

Page 2

1 at 9:26 a.m., at the law offices of
 2 Hogan & Hartson, 111 South Calvert Street,
 3 Baltimore, Maryland, before Dawn A. Jaques,
 4 Certified Shorthand Reporter and Notary Public in
 5 and for the State of Maryland, when were present
 6 on behalf of the respective parties:
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 21
 22 (CAPTIONS CONTINUED)

Page 3

1 IN THE CIRCUIT COURT
 2 OF MONTGOMERY COUNTY, ALABAMA
 3 -----X
 4 STATE OF ALABAMA, :
 5 Plaintiff, : Case No.
 6 vs. : CV-05-219
 7 ABBOTT LABORATORIES, :
 8 INC., et al., : Judge Charles
 9 Defendants. : Price
 10 -----X
 11
 12
 13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 14 STATE OF HAWAII
 15 -----X
 16 STATE OF HAWAII, :
 17 Plaintiff, : Case No.
 18 vs. : 06-10720-04-EEH
 19 ABBOTT LABORATORIES, et al., : Judge Eden
 20 Defendants. : Elizabeth Hifo
 21 -----X
 22

Page 4

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
 2 IN AND FOR LEON COUNTY, FLORIDA
 3 THE STATE OF FLORIDA
 4 ex rel.
 5 -----X
 6 VEN-A-CARE OF THE FLORIDA :
 7 KEYS, INC., a Florida :
 8 Corporation, by and through :
 9 its principal officers and :
 10 directors, ZACHARY T. :
 11 BENTLEY and T. MARK JONES, :
 12 Plaintiffs, :
 13 vs. :
 14 MYLAN LABORATORIES, INC., : Civil Action No.:
 15 MYLAN PHARMACEUTICALS, INC., : 98-3032G
 16 NOVOPHARM LTD., SCHEIN :
 17 PHARMACEUTICAL, INC., TEVA : Judge William L.
 18 PHARMACEUTICAL INDUSTRIES : Gary
 19 LTD, TEVA PHARMACEUTICAL USA, :
 20 WATSON PHARMACEUTICALS, INC., :
 21 Defendants. :
 22 -----X

Page 5

1 FRANKLIN CIRCUIT COURT - DIVISION II
 2 CIVIL ACTION NO. 03-CI-1134
 3
 4 -----X
 5 COMMONWEALTH OF KENTUCKY, :
 6 Plaintiff, :
 7 vs. : Judge
 8 : Crittenden
 9 ABBOTT LABORATORIES, INC., :
 10 Defendant. :
 11 -----X
 12
 13 STATE OF WISCONSIN CIRCUIT COURT
 14 DANE COUNTY
 15 Branch 9
 16 -----X
 17 STATE OF WISCONSIN, :
 18 Plaintiff, :
 19 vs. : Case No.
 20 AMGEN, INC., et al., : 04-CV-1709
 21 Defendants. :
 22 -----X

2 (Pages 2 to 5)

Reed, Larry

September 26, 2007

Baltimore, MD

<p style="text-align: right;">Page 6</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 -----X FOR THE FIFTH 4 STATE OF SOUTH CAROLINA : JUDICIAL DISTRICT 5 and HENRY D. McMASTER : Case No. 6 in his official capacity : 2006-CP-40-4394 7 as Attorney General for : 8 the State of South : 9 Carolina, : 10 Plaintiffs, : 11 vs. : 12 ABBOTT LABORATORIES, : 13 Defendant. : 14 -----X 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p style="text-align: right;">Page 8</p> <p>1 A P P E A R A N C E S 2 3 On behalf of the United States of America: 4 5 ANA MARIA MARTINEZ, ESQ. 6 United States Department of Justice 7 Assistant United States Attorney 8 Southern District of Florida 9 99 N.E. 4th Street 10 Miami, Florida 33132 11 TELEPHONE: (305) 961-9431 12 E-MAIL: Ana.maria.martinez@usdoj.gov 13 -and- 14 JUSTIN DRAYCOTT, ESQ. 15 United States Department of Justice 16 Civil Division 17 P.O. Box 261 18 Ben Franklin Station 19 Washington, D.C. 20044 20 TELEPHONE: (202) 305-9300 21 E-MAIL: Justin.draycott@usdoj.gov 22</p>
<p style="text-align: right;">Page 7</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 : FOR THE FIFTH 4 : JUDICIAL CIRCUIT 5 STATE OF SOUTH CAROLINA : 6 and HENRY D. McMASTER, : 7 in his official capacity : 8 as Attorney General for : 9 the State of South : Civil Action No. 10 Carolina, : 07-CP-40-0285 11 Plaintiff, : 12 vs. : Civil Action No. 13 SANDOZ, INC., : 07-CP-40-0287 14 Defendant. : 15 -----X 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 9</p> <p>1 APPEARANCES (Continued:) 2 3 On behalf of Ven-A-Care: 4 5 ROSLYN G. POLLACK, ESQ. 6 Berger & Montague, P.C. 7 1622 Locust Street 8 Philadelphia, Pennsylvania 19103-6305 9 TELEPHONE: (215) 875-4666 10 E-MAIL: rpollack@bm.net 11 12 On behalf of U.S. Department of 13 Health and Human Services: 14 15 LESLIE STAFFORD, ESQ. 16 U.S. Department of Health and 17 Human Services 18 Office of General Counsel, CMS Division 19 7500 Security Boulevard 20 Mail Stop C2-05-23 21 Baltimore, Maryland 21244-1850 22 TELEPHONE: (410) 786-9655</p>

3 (Pages 6 to 9)

Reed, Larry

September 26, 2007

Baltimore, MD

<p style="text-align: right;">Page 10</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of City of New York and New York</p> <p>4 counties:</p> <p>5</p> <p>6 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>7 WINGET-HERNANDEZ LLC</p> <p>8 3112 Windsor Road</p> <p>9 Suite 228</p> <p>10 Austin, Texas 78703</p> <p>11 TELEPHONE: (512) 474-4095</p> <p>12 E-MAIL: Michael@winget-hernandez.com</p> <p>13</p> <p>14 On behalf of Abbott Laboratories:</p> <p>15</p> <p>16 DAVID S. TORBORG, ESQ.</p> <p>17 Jones Day</p> <p>18 51 Louisiana Avenue, N.W.</p> <p>19 Washington, D.C. 20001-2113</p> <p>20 TELEPHONE: (202) 879-5562</p> <p>21 E-MAIL: Dstorborg@jonesday.com</p> <p>22</p>	<p style="text-align: right;">Page 12</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of GlaxoSmithKline:</p> <p>4</p> <p>5 SHANKAR DURAISWAMY, ESQ.</p> <p>6 Covington & Burling LLP</p> <p>7 1201 Pennsylvania Avenue, N.W.</p> <p>8 Washington, D.C. 20004</p> <p>9 TELEPHONE: (202) 662-5273</p> <p>10 E-MAIL: Sduraiswamy@cov.com</p> <p>11</p> <p>12 On behalf of Bristol-Myers Squibb Company:</p> <p>13 (via telephone)</p> <p>14</p> <p>15 SANDHYA P. KAWATRA, ESQ.</p> <p>16 Hogan & Hartson LLP</p> <p>17 875 Third Avenue</p> <p>18 New York, New York 10022</p> <p>19 TELEPHONE: (212) 918-3532</p> <p>20 E-MAIL: Spkawatra@hhlaw.com</p> <p>21</p> <p>22 (Continued)</p>
<p style="text-align: right;">Page 11</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Dey, Inc.:</p> <p>4</p> <p>5 NEIL MERKL, ESQ.</p> <p>6 Kelley Drye & Warren LLP</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 TELEPHONE: (212) 808-7811</p> <p>10 E-MAIL: Nmerkl@kelleydrye.com</p> <p>11</p> <p>12 On behalf of Roxane Laboratories and</p> <p>13 Boehringer Ingelheim:</p> <p>14</p> <p>15 ERIC GORTNER, ESQ.</p> <p>16 Kirkland & Ellis LLP</p> <p>17 200 East Randolph Drive</p> <p>18 Chicago, Illinois 60601</p> <p>19 TELEPHONE: (312) 861-2285</p> <p>20 E-MAIL: Egortner@kirkland.com</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 13</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Baxter Health Care Corporation</p> <p>4 (via telephone):</p> <p>5</p> <p>6 SHAMIR PATEL, ESQ.</p> <p>7 Dickstein Shapiro LLP</p> <p>8 1825 Eye Street, N.W.</p> <p>9 Washington, D.C. 20006</p> <p>10 TELEPHONE: (202) 420-2728</p> <p>11 E-MAIL: Patels@dicksteinshapiro.com</p> <p>12</p> <p>13 On behalf of the State of Alabama (via telephone):</p> <p>14</p> <p>15 W. DANIEL (DEE) MILES, III</p> <p>16 Beasley, Allen, Crow, Methvin,</p> <p>17 Portis & Miles</p> <p>18 218 Commerce Street</p> <p>19 Post Office Box 4160</p> <p>20 Montgomery, Alabama 36103-4160</p> <p>21 TELEPHONE: (334) 269-2343</p> <p>22 (Continued)</p>

4 (Pages 10 to 13)

Reed, Larry

September 26, 2007

Baltimore, MD

<p style="text-align: right;">Page 14</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of Sandoz, Inc. (via telephone):</p> <p>4</p> <p>5 DAVID L. KLEINMAN, ESQ.</p> <p>6 White & Case LLP</p> <p>7 1155 Avenue of the Americas</p> <p>8 New York, New York 10036-2787</p> <p>9 TELEPHONE: (212) 819-8254</p> <p>10</p> <p>11 On behalf of the State of California</p> <p>12 (via telephone):</p> <p>13</p> <p>14 RITA HANSCOM, ESQ.</p> <p>15 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>16 Office of the Attorney General</p> <p>17 California Department of Justice</p> <p>18 TELEPHONE: (619) 688-6099</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 16</p> <p>1 I-N-D-E-X</p> <p>2 WITNESS: PAGE:</p> <p>3 LARRY REED</p> <p>4 Examination by Mr. Torborg..... 029</p> <p>5</p> <p>6</p> <p>7 E-X-H-I-B-I-T-S</p> <p>8 NUMBER DESCRIPTION PAGE</p> <p>9 Exhibit Abbott 321-Plaintiffs' Rule 26(a)(1)</p> <p>10 Disclosures..... 151</p> <p>11 Exhibit Abbott 322-Documentation, Bates Stamp</p> <p>12 Nos. HHC007-0979 through 80. 231</p> <p>13 Exhibit Abbott 323-Documentation, Bates Stamp</p> <p>14 Nos. TX-ABT_00013723</p> <p>15 through 32..... 234</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 15</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of the State of Florida (via telephone):</p> <p>4</p> <p>5 MARY S. MILLER, ESQ.</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 TELEPHONE: (850) 414-3600</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 17</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. This</p> <p>4 is the video deposition of Larry Reed in the</p> <p>5 matter of In Re: Pharmaceutical Industry Average</p> <p>6 Wholesale Price Litigation, MDL No. 1456, Civil</p> <p>7 Action No. 01-CV-12257-PVS, in the United States</p> <p>8 District Court for the District of Massachusetts.</p> <p>9 This document relates to U.S. ex rel.</p> <p>10 Ven-A-Care of Florida Keys, Inc., versus Abbott</p> <p>11 Laboratories, Inc., Case No. 06-CV-11337-PBS,</p> <p>12 held in the offices of Hogan & Hartson at 111</p> <p>13 South Calvert Street, Baltimore, Maryland, on</p> <p>14 this date, Wednesday, September 22nd, 2000 --</p> <p>15 correction, Wednesday, September 26th, 2007, at</p> <p>16 the time indicated on the video screen, 9:26 a.m.</p> <p>17 My name is Ellen Heber; I am the legal</p> <p>18 video specialist. The court reporter is Dawn</p> <p>19 Jaques. We are employed by Henderson Legal</p> <p>20 Services.</p> <p>21 Counsel will now introduce themselves</p> <p>22 and the parties they represent, after which the</p>

5 (Pages 14 to 17)

Baltimore, MD

Page 329

1 UNITED STATES DISTRICT COURT
2 OF THE DISTRICT OF MASSACHUSETTS

3 -----x
4 IN RE: PHARMACEUTICAL : MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION
6 PRICE LITIGATION : 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO :
8 U.S. ex rel. Ven-A-Care of : Judge Patti B.
9 The Florida Keys, Inc., : Saris
10 Plaintiff, :
11 vs. :
12 ABBOTT LABORATORIES, INC., : Chief Magistrate
13 No. 06-CV-11337-PBS : Judge Marianne B.
14 Defendants. : Bowler

15 -----x

16 VOLUME II

17 Baltimore, Maryland

18 Thursday, September 27, 2007

19 Continued Videotape Deposition of:

20 LARRY REED,

21 the witness, was called for examination by counsel
22 for the Defendants, pursuant to notice, commencing

<p style="text-align: right;">Page 330</p> <p>1 at 9:15 a.m., at the law offices of 2 Hogan & Hartson, 111 South Calvert Street, 3 Baltimore, Maryland, before Dawn A. Jaques, 4 Certified Shorthand Reporter and Notary Public in 5 and for the State of Maryland, when were present 6 on behalf of the respective parties: 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p style="text-align: right;">Page 332</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT 2 IN AND FOR LEON COUNTY, FLORIDA 3 THE STATE OF FLORIDA 4 ex rel. 5 -----X 6 VEN-A-CARE OF THE FLORIDA : 7 KEYS, INC., a Florida : 8 Corporation, by and through : 9 its principal officers and : 10 directors, ZACHARY T. : 11 BENTLEY and T. MARK JONES, : 12 Plaintiffs, : 13 vs. : 14 MYLAN LABORATORIES, INC., : Civil Action No.: 15 MYLAN PHARMACEUTICALS, INC., : 98-3032G 16 NOVOPHARM LTD., SCHEIN : 17 PHARMACEUTICAL, INC., TEVA : Judge William L. 18 PHARMACEUTICAL INDUSTRIES : Gary 19 LTD, TEVA PHARMACEUTICAL USA, : 20 WATSON PHARMACEUTICALS, INC., : 21 Defendants. : 22 -----X</p>
<p style="text-align: right;">Page 331</p> <p>1 IN THE CIRCUIT COURT 2 OF MONTGOMERY COUNTY, ALABAMA 3 -----X 4 STATE OF ALABAMA, : 5 Plaintiff, : Case No. 6 vs. : CV-05-219 7 ABBOTT LABORATORIES, : 8 INC., et al., : Judge Charles 9 Defendants. : Price 10 -----X 11 12 13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT 14 STATE OF HAWAII 15 -----X 16 STATE OF HAWAII, : 17 Plaintiff, : Case No. 18 vs. : 06-10720-04-EEH 19 ABBOTT LABORATORIES, et al., : Judge Eden 20 Defendants. : Elizabeth Hifo 21 -----X 22</p>	<p style="text-align: right;">Page 333</p> <p>1 FRANKLIN CIRCUIT COURT - DIVISION II 2 CIVIL ACTION NO. 03-CI-1134 3 4 -----X 5 COMMONWEALTH OF KENTUCKY, : 6 Plaintiff, : 7 vs. : Judge 8 : Crittenden 9 ABBOTT LABORATORIES, INC., : 10 Defendant. : 11 -----X 12 13 STATE OF WISCONSIN CIRCUIT COURT 14 DANE COUNTY 15 Branch 9 16 -----X 17 STATE OF WISCONSIN, : 18 Plaintiff, : 19 vs. : Case No. 20 AMGEN, INC., et al., : 04-CV-1709 21 Defendants. : 22 -----X</p>

<p style="text-align: right;">Page 334</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 -----X FOR THE FIFTH 4 STATE OF SOUTH CAROLINA : JUDICIAL DISTRICT 5 and HENRY D. McMASTER : Case No. 6 in his official capacity : 2006-CP-40-4394 7 as Attorney General for : 8 the State of South : 9 Carolina, : 10 Plaintiffs, : 11 vs. : 12 ABBOTT LABORATORIES, : 13 Defendant. : 14 -----X 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p style="text-align: right;">Page 336</p> <p>1 A P P E A R A N C E S 2 3 On behalf of the United States of America: 4 5 ANA MARIA MARTINEZ, ESQ. 6 United States Department of Justice 7 Assistant United States Attorney 8 Southern District of Florida 9 99 N.E. 4th Street 10 Miami, Florida 33132 11 TELEPHONE: (305) 961-9431 12 E-MAIL: Ana.maria.martinez@usdoj.gov 13 -and- 14 JUSTIN DRAYCOTT, ESQ. 15 United States Department of Justice 16 Civil Division 17 P.O. Box 261 18 Ben Franklin Station 19 Washington, D.C. 20044 20 TELEPHONE: (202) 305-9300 21 E-MAIL: Justin.draycott@usdoj.gov 22</p>
<p style="text-align: right;">Page 335</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 : FOR THE FIFTH 4 : JUDICIAL CIRCUIT 5 STATE OF SOUTH CAROLINA : 6 and HENRY D. McMASTER, : 7 in his official capacity : 8 as Attorney General for : 9 the State of South : Civil Action No. 10 Carolina, : 07-CP-40-0285 11 Plaintiff, : 12 vs. : Civil Action No. 13 SANDOZ, INC., : 07-CP-40-0287 14 Defendant. : 15 -----X 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 337</p> <p>1 APPEARANCES (Continued:) 2 3 On behalf of Ven-A-Care: 4 5 ROSLYN G. POLLACK, ESQ. 6 Berger & Montague, P.C. 7 1622 Locust Street 8 Philadelphia, Pennsylvania 19103-6305 9 TELEPHONE: (215) 875-4666 10 E-MAIL: rpollack@bm.net 11 12 On behalf of U.S. Department of 13 Health and Human Services: 14 15 LESLIE STAFFORD, ESQ. 16 U.S. Department of Health and 17 Human Services 18 Office of General Counsel, CMS Division 19 7500 Security Boulevard 20 Mail Stop C2-05-23 21 Baltimore, Maryland 21244-1850 22 TELEPHONE: (410) 786-9655</p>

<p style="text-align: right;">Page 338</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of City of New York and New York</p> <p>4 counties:</p> <p>5</p> <p>6 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>7 WINGET-HERNANDEZ LLC</p> <p>8 3112 Windsor Road</p> <p>9 Suite 228</p> <p>10 Austin, Texas 78703</p> <p>11 TELEPHONE: (512) 474-4095</p> <p>12 E-MAIL: Michael@winget-hernandez.com</p> <p>13</p> <p>14 On behalf of Abbott Laboratories:</p> <p>15</p> <p>16 DAVID S. TORBORG, ESQ.</p> <p>17 Jones Day</p> <p>18 51 Louisiana Avenue, N.W.</p> <p>19 Washington, D.C. 20001-2113</p> <p>20 TELEPHONE: (202) 879-5562</p> <p>21 E-MAIL: Dstorborg@jonesday.com</p> <p>22</p>	<p style="text-align: right;">Page 340</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of GlaxoSmithKline:</p> <p>4</p> <p>5 SHANKAR DURAISWAMY, ESQ.</p> <p>6 Covington & Burling LLP</p> <p>7 1201 Pennsylvania Avenue, N.W.</p> <p>8 Washington, D.C. 20004</p> <p>9 TELEPHONE: (202) 662-5273</p> <p>10 E-MAIL: Sduraiswamy@cov.com</p> <p>11</p> <p>12 On behalf of Bristol-Myers Squibb Company:</p> <p>13 (via telephone)</p> <p>14</p> <p>15 ANDREA W. TRENTO, ESQ.</p> <p>16 Hogan & Hartson LLP</p> <p>17 875 Third Avenue</p> <p>18 New York, New York 10022</p> <p>19 TELEPHONE: (212) 918-3532</p> <p>20 E-MAIL: Awtrento@hhlaw.com</p> <p>21</p> <p>22 (Continued)</p>
<p style="text-align: right;">Page 339</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Dey, Inc.:</p> <p>4</p> <p>5 NEIL MERKL, ESQ.</p> <p>6 Kelley Drye & Warren LLP</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 TELEPHONE: (212) 808-7811</p> <p>10 E-MAIL: Nmerkl@kelleydrye.com</p> <p>11</p> <p>12 On behalf of Roxane Laboratories and</p> <p>13 Boehringer Ingelheim:</p> <p>14</p> <p>15 ERIC GORTNER, ESQ.</p> <p>16 Kirkland & Ellis LLP</p> <p>17 200 East Randolph Drive</p> <p>18 Chicago, Illinois 60601</p> <p>19 TELEPHONE: (312) 861-2285</p> <p>20 E-MAIL: Egortner@kirkland.com</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 341</p> <p>1 APPEARANCES (Continued:)</p> <p>2</p> <p>3 On behalf of Baxter Health Care Corporation</p> <p>4 (via telephone):</p> <p>5</p> <p>6 EDEN M. HEARD, ESQ.</p> <p>7 Dickstein Shapiro LLP</p> <p>8 1825 Eye Street, N.W.</p> <p>9 Washington, D.C. 20006</p> <p>10 TELEPHONE: (202) 420-2728</p> <p>11 E-MAIL: Hearde@dicksteinshapiro.com</p> <p>12</p> <p>13 On behalf of the State of Alabama (via telephone):</p> <p>14</p> <p>15 W. DANIEL (DEE) MILES, III</p> <p>16 Beasley, Allen, Crow, Methvin,</p> <p>17 Portis & Miles</p> <p>18 218 Commerce Street</p> <p>19 Post Office Box 4160</p> <p>20 Montgomery, Alabama 36103-4160</p> <p>21 TELEPHONE: (334) 269-2343</p> <p>22 (Continued)</p>

<p style="text-align: right;">Page 342</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of Sandoz, Inc. (via telephone):</p> <p>4</p> <p>5 DAVID L. KLEINMAN, ESQ.</p> <p>6 White & Case LLP</p> <p>7 1155 Avenue of the Americas</p> <p>8 New York, New York 10036-2787</p> <p>9 TELEPHONE: (212) 819-8254</p> <p>10</p> <p>11 On behalf of the State of California</p> <p>12 (via telephone):</p> <p>13</p> <p>14 RITA HANSCOM, ESQ.</p> <p>15 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>16 Office of the Attorney General</p> <p>17 California Department of Justice</p> <p>18 TELEPHONE: (619) 688-6099</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 344</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of the State of California:</p> <p>4 NICHOLAS N. PAUL, ESQ.</p> <p>5 Bureau of Medi-Cal Fraud & Elder Abuse</p> <p>6 Supervising Deputy Attorney General</p> <p>7 Civil Prosecutions Unit</p> <p>8 P.O. Box 85266</p> <p>9 110 West A Street, Suite 1100</p> <p>10 San Diego, California 92186</p> <p>11 TELEPHONE: (619) 688-6099</p> <p>12 E-MAIL: Nicholas.paul@doj.ca.gov</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 343</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 On behalf of the State of Florida (via telephone):</p> <p>4</p> <p>5 MARY S. MILLER, ESQ.</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 TELEPHONE: (850) 414-3600</p> <p>10</p> <p>11 On behalf of Schering Corporation, Schering-Plough</p> <p>12 Corporation and Warrick Pharmaceuticals</p> <p>13 Corporation:</p> <p>14</p> <p>15 GINGER APPLEBERRY, ESQ.</p> <p>16 Locke Liddell & Sapp PLLC</p> <p>17 2200 Ross Avenue, Suite 2200</p> <p>18 Dallas, Texas 75201</p> <p>19 TELEPHONE: (214) 740-8459</p> <p>20 E-MAIL: Gappleberry@lockeliddell.com</p> <p>21</p> <p>22 (Continued)</p>	<p style="text-align: right;">Page 345</p> <p>1 I-N-D-E-X</p> <p>2 WITNESS: PAGE:</p> <p>3 LARRY REED</p> <p>4 Examination by Mr. Torborg..... 347</p> <p>5</p> <p>6</p> <p>7</p> <p>8 E-X-H-I-B-I-T-S</p> <p>9 NUMBER DESCRIPTION PAGE</p> <p>10 Exhibit Abbott 324-Letter dated August 3, 1994,</p> <p>11 Bates Stamp No. HHD032-0040. 451</p> <p>12 Exhibit Abbott 325-Documentation, Bates Stamp</p> <p>13 Nos. HHD014-0544 through 562 461</p> <p>14 Exhibit Abbott 326-Miscellaneous Documentation,</p> <p>15 (22 pages, no Bates Stamp</p> <p>16 Nos.)..... 498</p> <p>17 Exhibit Abbott 327-Documentation, Bates Stamp</p> <p>18 Nos. HHD014-0657 through 674 516</p> <p>19 Exhibit Abbott 328-Documentation, Bates Stamp</p> <p>20 Nos. HHC004-0188 through 190 532</p> <p>21 Exhibit Abbott 329-Documentation, Bates Stamp</p> <p>22 Nos. HHD014-0764 through 782 580</p>

Reed, Larry - Vol. III.txt

0604

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS
 3
 4 IN RE: PHARMACEUTICAL) MDL NO. 1456
 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
 6 PRICE LITIGATION) 01-CV-12257-PBS
 7 THIS DOCUMENT RELATES TO)
 8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
 9 the Florida Keys, Inc.)
 10 v.) Chief Magistrate
 11 Abbott Laboratories, Inc.,) Judge Marianne B.
 12 No. 06-CV-11337-PBS) Bowler

(captions continue on following pages)

Videotaped deposition of LARRY REED
 Volume III

Washington, D.C.
 Tuesday, March 18, 2008
 9:00 a.m.

0605

1 IN THE CIRCUIT COURT OF
 2 MONTGOMERY COUNTY, ALABAMA
 3
 4 STATE OF ALABAMA,)
 5 Plaintiff,)
 6 vs.) Case No. CV-2005-219
 7 ABBOTT LABORATORIES, INC.,) Judge Charles Price
 8 et al.,)
 9 Defendants.)

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 11
 12
 13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 14 STATE OF HAWAII
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 16 STATE OF HAWAII,)
 17 Plaintiff,) Case No.
 18 vs.) 06-1-0720-04 EEH
 19 ABBOTT LABORATORIES, INC.,)
 20 et al.,) JUDGE EDEN
 21 Defendants.) ELIZABETH HIFO
 22

0606

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
 2 IN AND FOR LEON COUNTY, FLORIDA
 3 THE STATE OF FLORIDA
 4 ex rel.
 5
 6 VEN-A-CARE OF THE FLORIDA KEYS,)
 7 INC., a Florida Corporation, by and)
 8 through its principal officers and)
 9 directors, ZACHARY T. BENTLEY and)
 10 T. MARK JONES,)
 11 Plaintiffs,) Civil Action
 12 vs.) No. 98-3032G
 13 MYLAN LABORATORIES INC.; MYLAN)
 14 PHARMACEUTICALS INC.; NOVOPHARM) Judge William
 15 LTD.; SCHEIN PHARMACEUTICAL, INC.;) L. Gary
 16 TEVA PHARMACEUTICAL INDUSTRIES)
 17 LTD.; TEVA PHARMACEUTICAL USA; and)
 18 WATSON PHARMACEUTICALS, INC.,)
 19 DEFENDANTS.)

Reed, Larry - Vol. III.txt

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0607

1 COMMONWEALTH OF KENTUCKY
 2 FRANKLIN CIRCUIT COURT - DIV. II
 3
 4 COMMONWEALTH OF KENTUCKY,)
 5 Plaintiff,) Civil Action
 6 vs.) NO. 03-CI-1134
 7 ABBOTT LABORATORIES, INC., et al.,)
 8 Defendants.)
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0608

1 IN THE COURT OF COMMON PLEAS
 2 FIFTH JUDICIAL CIRCUIT
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 5 STATE OF WISCONSIN,)
 6 Plaintiff,)
 7 vs.) Case No. 04-CV-1709
 8 AMGEN INC., et al.,)
 9 Defendants.)
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0609

1 IN THE COURT OF COMMON PLEAS
 2 FIFTH JUDICIAL CIRCUIT
 3
 4
 5 STATE OF SOUTH CAROLINA, and)
 6 HENRY D. McMASTER, in his) STATE OF
 7 official capacity as Attorney) SOUTH CAROLINA
 8 General for the State of South) COUNTY OF
 9 Carolina,) RICHLAND
 10 Plaintiff,)
 11 vs.) Civil Action No.
 12 SANDOZ INC.,) 2007-CP-40-0285
 13 Defendants.) 2007-CP-40-0287
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Continued videotaped deposition of LARRY REED,

Reed, Larry - Vol. III.txt

17 held at the law offices of Jones Day, 51 Louisiana
18 Avenue, N.W., Washington, D.C. 20001-2113, the
19 proceedings being recorded stenographically by
20 Jonathan Wonnell, a Registered Professional Court
21 Reporter and Notary Public of the District of
22 Columbia, and transcribed under his direction.

0610
1 A P P E A R A N C E S O F C O U N S E L

2
3 On behalf of the United States of America:

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13 Human Services:

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1 A P P E A R A N C E S (Cont'd)

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0612
1 A P P E A R A N C E S (Cont'd)

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3 On behalf of the City of New York and all New York
4 Counties other than Nassau and Orange; the States
5 of Wisconsin, Illinois, Kentucky, Idaho, Alaska,
6 Hawaii and South Carolina:

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13 michael@winget-hernandez.com

Reed, Larry - Vol. III.txt

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On behalf of Roxane Laboratories and Boehringer
Ingelheim:

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jheck@kirkland.com

A P P E A R A N C E S (Cont'd)

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msalzman@whitcase.com

Reed, Larry - Vol. III.txt

On behalf of Schering-Plough Corporation, Schering Corporation and Warrick Pharmaceuticals Corporation:

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john.bueker@ropesgray.com

ALSO PRESENT: CONWAY BARKER, videographer

CONTENTS

WITNESS NAME	PAGE
LARRY REED	
Examination By Mr. Torborg.....	620
Examination By Mr. Merkl.....	851

EXHIBITS

NUMBER	DESCRIPTION	PAGE
Exhibit Abbott 750,	HHD 014-0408 - 426.....	767
Exhibit Abbott 751,	CBO study entitled "How increased competition from generic drugs has affected prices and returns in the pharmaceutical industry" (no Bates ref).....	817

PROCEEDINGS

(9:20 a.m.)

THE VIDEOGRAPHER: In the United States District Court for the District of Massachusetts In Re: Pharmaceutical Industry Average Wholesale Price Litigation, related to the United States of America ex rel. Ven-A-Care of the Florida Keys, Incorporated, versus Abbott Laboratories, Incorporated, et al., Case Number 01-CV-12257 PBS, this is the deposition, volume 3, of Larry Reed.

Today's date is March 18th 2008. The location of the deposition is Jones Day, 51 Louisiana Avenue, Northwest, Washington, D.C. Will counsel please identify yourselves and state whom you represent?

MR. TORBORG: David Torborg from Jones Day on behalf of Abbott Laboratories.

MR. MERKL: Neil Merkl from Kelley Drye on behalf of the Dey Companies.

MR. HECK: Jared Heck with Kirkl and &

Ellis on behalf of the Roxane Companies.

MR. BUEKER: John Bueker from Ropes & Gray on behalf of Warrick Pharmaceuticals, Schering Corporation and Schering-Plough Corporation.

MS. MARTINEZ: Ani Martinez on behalf of the United States.

Reed 30(b)(6), Larry.txt

00001

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS
 3
 4 IN RE: PHARMACEUTICAL) MDL NO. 1456
 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
 6 PRICE LITIGATION) 01-CV-12257-PBS
 7 THIS DOCUMENT RELATES TO)
 8 U. S. ex rel. Ven-a-Care of) Judge Patti B. Saris
 9 the Florida Keys, Inc.)
 10 v.) Chief Magistrate
 11 Abbott Laboratories, Inc.,) Judge Marianne B.
 12 No. 06-CV-11337-PBS) Bowler
 13

(captions continue on following pages)

14
 15
 16 Washington, D. C.
 17 Thursday, March 20, 2008
 18 9:00 a.m.
 19

20 Videotaped deposition of LARRY REED as 30(b)(6)
 21 witness for the UNITED STATES OF AMERICA
 22

00002

1 IN THE CIRCUIT COURT OF
 2 MONTGOMERY COUNTY, ALABAMA
 3
 4 STATE OF ALABAMA,)
 5 Plaintiff,)
 6 vs.) Case No. CV-2005-219
 7 ABBOTT LABORATORIES, INC.,) Judge Charles Price
 8 et al.,)
 9 Defendants.)
 10

11
 12 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 13 STATE OF HAWAII
 14
 15 STATE OF HAWAII,)
 16 Plaintiff,) Case No.
 17 vs.) 06-1-0720-04 EEH
 18 ABBOTT LABORATORIES, INC.,)
 19 et al.,) JUDGE EDEN
 20 Defendants.) ELIZABETH HIFO
 21
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00003

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
 2 IN AND FOR LEON COUNTY, FLORIDA
 3 THE STATE OF FLORIDA
 4 ex rel.
 5
 6 VEN-A-CARE OF THE FLORIDA KEYS,)
 7 INC., a Florida Corporation, by and)
 8 through its principal officers and)
 9 directors, ZACHARY T. BENTLEY and)
 10 T. MARK JONES,)
 11 Plaintiffs,) Civil Action
 12 vs.) No. 98-3032G
 13 MYLAN LABORATORIES INC.; MYLAN)
 14 PHARMACEUTICALS INC.; NOVOPHARM) Judge William
 15 LTD.; SCHEIN PHARMACEUTICAL, INC.;) L. Gary
 16 TEVA PHARMACEUTICAL INDUSTRIES)
 17 LTD.; TEVA PHARMACEUTICAL USA; and)
 18 WATSON PHARMACEUTICALS, INC.,)
 19 DEFENDANTS.)

Reed 30(b)(6), Larry.txt

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 1
 2 COMMONWEALTH OF KENTUCKY
 3 FRANKLIN CIRCUIT COURT - DIV. II
 4 - - - - -
 4 COMMONWEALTH OF KENTUCKY,)
 5 Plaintiff,) Civil Action
 6 vs.) NO. 03-CI-1134
 7 ABBOTT LABORATORIES, INC., et al.,)
 8 Defendants.)
 9 - - - - -
 10
 11 STATE OF WISCONSIN CIRCUIT COURT
 12 DANE COUNTY
 13 Branch 9
 14 - - - - -
 15 STATE OF WISCONSIN,)
 16 Plaintiff,)
 17 vs.) Case No. 04-CV-1709
 18 AMGEN INC., et al.,)
 19 Defendants.)
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00005
 1 IN THE COURT OF COMMON PLEAS
 2 FIFTH JUDICIAL CIRCUIT
 3 - - - - -
 4 STATE OF SOUTH CAROLINA, and) STATE OF
 5 HENRY D. McMASTER, in his) SOUTH CAROLINA
 6 official capacity as Attorney) COUNTY OF
 7 General for the State of South) RICHLAND
 8 Carolina,)
 9 Plaintiffs,)
 10 vs.) Civil Action No.
 11 ABBOTT LABORATORIES, INC.,) 2006-CP-40-4394
 12 Defendants.)
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00006
 1 IN THE COURT OF COMMON PLEAS
 2 FIFTH JUDICIAL CIRCUIT
 3 - - - - -
 4 STATE OF SOUTH CAROLINA, and) STATE OF
 5 HENRY D. McMASTER, in his) SOUTH CAROLINA
 6 official capacity as Attorney) COUNTY OF
 7 General for the State of South) RICHLAND
 8 Carolina,)
 9 Plaintiffs,)
 10 vs.) Civil Action No.
 11 SANDOZ INC.,) 2007-CP-40-0285
 12 Defendants.) 2007-CP-40-0287
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Videotaped 30(b)(6) deposition of LARRY REED,
 held at the law offices of Jones Day, 51 Louisiana

Reed 30(b)(6), Larry.txt

Avenue, N.W., Washington, D.C. 20001-2113, the
proceedings being recorded stenographically by
Jonathan Wonnell, a Registered Professional Court
Reporter and Notary Public of the District of
Columbia, and transcribed under his direction.

00007

A P P E A R A N C E S O F C O U N S E L

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A P P E A R A N C E S (Cont'd)

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00009

A P P E A R A N C E S (Cont'd)

On behalf of the City of New York and all New

York Counties other than Nassau and
Orange; and the States of Alaska, Hawaii,
Idaho, Illinois, Kentucky, South Carolina
and Wisconsin:

MICHAEL WINGET-HERNANDEZ, ESQ.
Winget-Hernandez, LLC
3112 Windsor Road, Suite 228
Austin, Texas 78703
(512) 858-4181
michael@winget-hernandez.com

Reed 30(b)(6), Larry.txt

On behalf of Ven-A-Care of the Florida Keys,
Inc.:
GARY A. AZORSKY, ESQ.
Berger & Montague P.C.
1622 Locust Street
Philadelphia, Pennsylvania 19103-6305
(215) 875-3000
gazorsky@bm.net

A P P E A R A N C E S (Cont'd)

On behalf of Abbott Laboratories, Inc.:
DAVID TORBORG, ESQ.
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
(202) 879-3939
dstorborg@jonesday.com

On behalf of Bristol-Myers Squibb:
ANDREA W. TRENTO, ESQ. (via phone)
Hogan & Hartson
875 Third Avenue
New York, New York 10022
(212) 918-3000
awtrento@hhlaw.com

A P P E A R A N C E S (Cont'd)

On behalf of Dey, Inc., Dey, L.P. and Mylan:
NEIL MERKL, ESQ.
Kelley, Drye & Warren LLP
101 Park Avenue
New York, New York 10178
(212) 808-7811
nmerkl@kelleydrye.com

On behalf of Roxane Laboratories and Boehringer
Ingelheim:
JARED T. HECK, ESQ.
Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601
(312) 469-7087
jheck@kirkland.com

A P P E A R A N C E S (Cont'd)

On behalf of Sandoz, Inc.:
MILANA SALZMAN, ESQ. (via phone)
White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787
(212) 819-8711
msalzman@whitewhitecase.com

Reed 30(b)(6), Larry.txt

On behalf of Schering-Plough Corporation,
Schering Corporation and Warri ck
Pharmaceutical s Corporati on:
JOHN P. BUEKER, ESQ.
Ropes & Gray
One International Place
Boston, Massachusetts 02110-2624
(617) 951-7050
john.bueker@ropesgray.com

ALSO PRESENT:
CONWAY BARKER, videographer

00013

C O N T E N T S

WITNESS NAME	PAGE
LARRY REED	
By Mr. Torborg:	18
By Ms. Marti nez:	219
By Mr. Torborg:	231

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit Abbott 756,	Notice of 30(b)(6) and	21
	30(b)(1) deposition of Larry Reed (no	
	Bates ref)	
Exhibit Abbott 757,	Martinez 3/13/08 e-mail to	22
	Cook et al. (no Bates ref)	
Exhibit Abbott 758,	copy of C.F.R. 447.301 (no	35
	Bates ref)	
Exhibit Abbott 759,	HHD 093-0157 through 0163	53
Exhibit Abbott 760,	HHC 002-0524	58
Exhibit Abbott 761,	HHC 011-0872	73
Exhibit Abbott 762,	HHC 002-0564 through 0565	77
Exhibit Abbott 763,	HHC 002-0515 through 22	83

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I N D E X O F E X H I B I T S (Cont'd)

NO.	DESCRIPTION	PAGE
Exhibit Abbott 764,	HHC 902-0744 through 45	118
Exhibit Abbott 765,	HHC 004-0131 through 37	148
Exhibit Abbott 766,	HHC 010-0868, 861 through	159
	862, 849 through 852, 842 through 843,	
	836, 835, 833, 817 through 818, 802	
	through 807, 770, 764, 759, 756 through	
	757	
Exhibit Abbott 767,	HHC 020-1589 through 1590	177
Exhibit Abbott 768,	HHC 020-1569 through 1570	179
Exhibit Abbott 769,	HHC 009-1316 through 1335	180
Exhibit Abbott 770,	HHC 009-1130	194
Exhibit Abbott 771,	HHC 009-1124 through 1125	194
Exhibit Abbott 772,	HHC 009-1117 through 1119	194
Exhibit Abbott 773,	HHC 009-1084 through 1088	194
Exhibit Abbott 774,	HHC 009-0978	194
Exhibit Abbott 775,	HHC 009-0970	194
Exhibit Abbott 776,	Director, Center for	210
	Medicaid and State Operations memo to	
	Scully and King-Shaw dated 10/22/2002	
	(redacted, no Bates ref)	

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P R O C E E D I N G S

(9:39 a.m.)

THE VIDEOGRAPHER: In the United States
District Court for the District of Massachusetts In
Re: Pharmaceutical Industry Average Wholesale Price
Litigation, related to the United States of America ex
rel. Ven-A-Care of the Florida Keys Incorporated

EXHIBIT W



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	)	MDL No.1456
	)	Master File No. 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)	
<i>United States of America ex rel. Ven-A-Care of</i>)	
<i>the Florida Keys, Inc., et al. v. Boehringer</i>)	
<i>Ingelheim Corporation, et al., Civil Action No.</i>)	
07-10248-PBS)	

CROSS-NOTICE OF DEPOSITION OF ELIZABETH RICHTER

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, the Roxane Defendants, by their undersigned attorneys, hereby cross-notice the deposition of Elizabeth Richter for the purposes of the above-captioned action. This deposition was noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.*, No. 06-CV-11337-PBS, a case pending in the United States District Court for the District of Massachusetts ("Abbott Action"). A copy of the deposition notice, served on November 30, 2007 in the Abbott Action, is attached as Exhibit 1 hereto.

Ms. Richter's deposition will begin at 9:00 a.m. on December 7, 2007 before a duly qualified officer and continue on successive days as necessary. The deposition shall be held at the law offices of Jones Day, 51 Louisiana Ave. N.W., Washington, D.C. 20001, and will be recorded by stenographic and/or sound and visual means. The deposition will be taken upon cross-examination. Arrangements will be made so that counsel may participate by telephone if they wish. The deposition is being taken for the purposes of discovery, for use at trial, and for other such purposes as permitted under the Federal Rules of Civil Procedure.

Dated: December 3, 2007

/s/ Eric T. Gortner
Helen E. Witt, P.C.
Eric T. Gortner
Jared T. Heck
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

/s/ Bruce A. Singal
Bruce A. Singal, BBO #464420
Richard Goldstein, BBO #565482
DONOGHUE BARRETT & SINGAL, P.C.
One Beacon Street
Boston, MA 02018
Telephone: (617) 720-5090
Facsimile: (617) 720-5092

Counsel for Defendants Boehringer Ingelheim Corp., Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim Roxane, Inc., and Roxane Laboratories, Inc.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on December 3, 2007, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ Eric T. Gortner
Eric T. Gortner

EXHIBIT W-1

Richter, Elizabeth

1

Saris

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -
4 IN RE: PHARMACEUTICAL) MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
6 PRICE LITIGATION) 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO)
8 U.S. ex rel. Ven-a-Care of) Judge Patti B.
9 the Florida Keys, Inc.)
10 v.) Chief Magistrate
11 Abbott Laboratories, Inc.,) Judge Marianne B.
12 No. 06-CV-11337-PBS) Bowler
13 - - - - -
14
15
16 Videotaped deposition of ELIZABETH RICHTER
17
18 Washington, D.C.
19 Friday, December 7, 2007
20 9:00 a.m.
21
22

Richter, Elizabeth

□

2

1

2 Videotaped deposition of ELIZABETH RICHTER,
3 held at the law offices of Jones Day, 51 Louisiana
4 Avenue, N.W., Washington, D.C. 20001-2113, the
5 proceedings being recorded stenographically by
6 Jonathan Wonnell, a Notary Public in and for the
7 District of Columbia, and transcribed under his
8 direction.

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Richter, Elizabeth

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3

1 A P P E A R A N C E S O F C O U N S E L

2

3 On behalf of the United States of America:

4 JUSTIN DRAYCOTT, ESQ.

5 U.S. Department of Justice

6 Civil Division

7 P.O. Box 261, Ben Franklin Station

8 Washington, D.C. 20044

9 (202) 305-9300

10 justin.draycott@usdoj.gov

11

and

12 On behalf of the U.S. Department of Health

13 Human Services:

14 TROY A. BARSKY, ESQ.

15 U.S. Department of Health & Human

16 Services

17 Office of General Counsel

18 7500 Security Boulevard

19 Baltimore, Maryland 21244-1850

20 (410) 786-8873

Richter, Elizabeth

21 troy.barsky@hhs.gov

22

□

4

1 A P P E A R A N C E S (Cont'd)

2

3 On behalf of Abbott Laboratories, Inc.:

4 R. CHRISTOPHER COOK, ESQ.

5 LOUIS P. GABEL, ESQ.

6 Jones Day

7 51 Louisiana Avenue, N.W.

8 Washington, D.C. 20001-2113

9 (202) 879-3939

10 christophercook@jonesday.com

11 lgabel@jonesday.com

12

13 On behalf of Dey, Inc. and Dey, L.P. and

14 Mylan:

15 WILLIAM A. ESCOBAR, ESQ.

16 Kelley, Drye & Warren LLP

17 101 Park Avenue

18 New York, New York 10178

19 Richter, Elizabeth
(212) 808-7609
20 wescobar@kelleydrye.com
21
22

□

5

1 A P P E A R A N C E S (Cont'd)
2
3 On behalf of Roxane Laboratories and
4 Boehringer Ingelheim:
5 ERIC GORTNER, ESQ.
6 Kirkland & Ellis
7 200 East Randolph Drive
8 Chicago, Illinois 60601
9 (312) 861-2285
10 egortner@kirkland.com
11
12 On behalf of Schering-Plough Corporation,
13 Schering Corporation and Warrick
14 Pharmaceuticals Corporation:
15 C. SCOTT JONES, ESQ. (via phone)
16 Locke, Lord, Bissell & Liddell LLP
17 2200 Ross Avenue, Suite 2200
Page 5

Richter, Elizabeth

18 Dallas, Texas 75201
19 (214) 740-8725
20 sjones@lockelord.com
21
22

□

6

1 A P P E A R A N C E S (Cont'd)

2

3 ALSO PRESENT:

4 CONWAY BARKER, videographer

5

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Richter, Elizabeth

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	1	I N D E X O F E X A M I N A T I O N S
	2	
PAGE	3	WITNESS NAME
	4	ELIZABETH RICHTER
012	5	By Mr. Cook.....
165	6	By Mr. Escobar.....
245	7	By Mr. Gortner.....
	8	
	9	
	10	I N D E X O F E X H I B I T S
PAGE	11	NUMBER DESCRIPTION

EXHIBIT X



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF VICKIE ROBEY

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Abbott Laboratories, by its undersigned attorneys, will take the deposition of Vickie Robey. Ms. Robey is being deposed in response to Abbott's Notice of Deposition of one or more persons designated by the United States to testify regarding the actions taken by the United States to insure the preservation of evidence, witness testimony, data, or other information relevant to or discoverable in this litigation. Vickie Robey is the Records Manager for CMS.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Hogan & Hartson LLP, 111 South Calvert St., Baltimore, MD, on March 20, 2007, beginning at 9:00 a.m. and continuing on successive days as necessary. Such deposition will be recorded by stenographic and/or sound and visual means.

The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: March 8, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF VICKIE ROBEY to be served upon be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 8th day of March, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

EXHIBIT X-1

Robey 30(b)(6), Victoria

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X
IN RE: PHARMACEUTICAL : MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:
PRICE LITIGATION : 01-CV-12257-PBS
THIS DOCUMENT RELATES TO :
U.S. ex rel. Ven-A-Care of : Judge Patti B. Saris
the Florida Keys, Inc. v. :
Abbott Laboratories, Inc., : Chief Magistrate
No. 06-CV-11337-PBS : Judge Marianne B.
: Bowler
-----X

HIGHLY CONFIDENTIAL

Tuesday, March 20, 2007

The video 30(b)(6) deposition of VICTORIA ROBEY,
called for oral examination by Counsel for the
Defendant Abbott Laboratories, Inc., pursuant to
notice, held in the law offices of Hogan &
Hartson, 111 South Calvert Street, Baltimore,
Maryland 21202, beginning at 9:20 a.m., before

Carol J. Robinson, Registered Professional
Reporter and a Notary Public, when were present:

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFFS:
United States Department of Justice
BY: ANA MARIA MARTINEZ, ESQUIRE
Assistant United States Attorney
Southern District of Florida
99 N.E. 4th Street

Robey 30(b)(6), Victoria
9 Miami, FL 33132
10 (305) 961-9431
11
12 Department of Health and Human Services
13 BY: LESLIE M. STAFFORD, ESQUIRE
14 Office of General Counsel
15 CMS Division
16 7500 Security Boulevard
17 Baltimore, Maryland 21244
18 (410) 786-9655
19
20
21

22 (CONTINUED)

0004

1 A P P E A R A N C E S (CONTINUED)
2
3 BERGER & MONTAGUE, P.C.
4 BY: SUSAN SCHNEIDER THOMAS, ESQUIRE
5 1622 Locust Street
6 Philadelphia, PA 19103
7 (215) 875-3000
8 sthomas@bm.net
9
10 ON BEHALF OF DEFENDANT ABBOTT LABORATORIES:
11 JONES DAY
12 BY: R. CHRISTOPHER COOK, ESQUIRE
13 LOUIS GABEL, ESQ.
14 51 Louisiana Avenue, N.W.
15 Washington, D.C. 20001
16 (202) 879-3939
17 christophercook@jonesday.com
18
19
20
21

22 (CONTINUED)

0005

1 A P P E A R A N C E S (CONTINUED)
2
3 ON BEHALF OF DEY, INC.,
4 DEY, LP AND DEY, LP, INC.:
5 KELLEY DRYE & WARREN LLP
6 BY: ANTONIA F. GIULIANA, ESQUIRE
7 101 Park Avenue
8 New York, New York 10178
9 (212) 808-7609
10 agiuliana@kelleydrye.com
11
12 ON BEHALF OF ROXANNE LABORATORIES:
13 KIRKLAND & ELLIS
14 BY: JARED T. HECK, Esquire
15 200 East Randolph Drive
16 Chicago, IL 60601
17 312-469-7087

18 Robey 30(b)(6), Victoria
19 jheck@kirkl and. com
20 (via telephone)
21

22 (CONTINUED)

0006

1 A P P E A R A N C E S (CONTINUED)

2
3 ON BEHALF OF SCHEIRING-WARRICK CORPORATION:
4 ROPES AND GRAY
5 BY: JOBE G. DANGANAN, Esquire
6 One International Place
7 Boston, MA 02110-2624
8 (617)951-7290
9 jobe.danganan@ropesgray. com
10 (via telephone)
11

12 ON BEHALF OF BAXTER HEALTHCARE:
13 DICKSTEIN SHAPIRO
14 BY: TINA D. REYNOLDS, Esquire
15 1825 Eye Street NW
16 Washington, DC 20006
17 (202) 420-4114
18 reynoldst@di ckstei nshapi ro. com
19 (via telephone)
20
21

22 (CONTINUED)

0007

1 A P P E A R A N C E S (CONTINUED)

2
3 ON BEHALF OF ASTRAZENECA:
4 DAVIS POLK & WARDWELL
5 BY: CATHERINE LIFESO, Esquire
6 450 Lexington Avenue
7 New York, NY 10017
8 (212)450-4452
9 catherine.lifeso@dpw. com
10 (via telephone)
11

12 Also Present: Michael Hunterton, Videographer
13
14
15
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18
19
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0008

1	C O N T E N T S	
2	EXAMINATION OF VICTORIA ROBEY	Page
3	By Mr. Cook.....	11

EXHIBIT Y



**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE	)	MDL No. 1456
LITIGATION)	
	)	Civil Action No. 01-12257-PBS
THIS DOCUMENT RELATES TO:	)	Judge Patti B. Saris
)	
ALL ACTIONS ¹	)	Magistrate Judge Marianne B. Bowler
)	

CROSS-NOTICE OF DEPOSITION OF AMY SERNYAK

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Schering Corporation ("Schering"), Schering Plough Corporation ("Schering Plough"), and Warrick Pharmaceuticals Corporation ("Warrick")² hereby cross-notice the deposition of Amy Sernyak for purposes of all cases pending in MDL No. 1456.

On February 26, 2007, attorneys for Abbott Laboratories, Inc. noticed the deposition of Ms. Sernyak for purposes of *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 06-CV-11337-PBS, a matter that is currently a part of MDL No. 1456. This notice is attached hereto. Through this cross-notice, counsel are hereby informed that the deposition of Ms. Sernyak will also be proceeding for purposes of all other cases pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

¹ As explained herein, this cross-notice regards all actions pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

² This cross-notice, which is being served for purposes of a number of actions pending in MDL No. 1456, is only served in a particular action on behalf of those entities that have appeared, been named, and been served in that particular action. To the extent that Schering, Schering Plough, or Warrick have not appeared, been served, or been named in a particular action, this notice does not constitute an appearance, consent to service, or consent to joinder

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Morgan Lewis, 1701 Market Street, Philadelphia, PA 19103 on March 6, 2007 beginning at 9:00 a.m. The attached subpoena *duces tecum* directs the witness to appear for the deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

By attorneys,

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)
Steven A. Kaufman (BBO#262230)
Eric P. Christofferson (BBO#654087)
Ropes & Gray LLP
One International Place
Boston, Massachusetts 02110-2624
(617) 951-7000

*Attorneys for Schering Corporation, Schering-
Plough Corporation, and Warrick
Pharmaceuticals Corporation*

Dated: February 27, 2007

by Schering, Schering Plough, or Warrick, respectively, in that action. Schering, Schering Plough, and Warrick also do not waive any objection regarding jurisdiction or other defenses, where applicable.

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Adam Wright
Adam Wright



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF AMY SERNYAK

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Amy Sernyak.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Morgan Lewis, 1701 Market Street, Philadelphia, PA 19103, on March 6, 2007 beginning at 9:00 a.m. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: February 26, 2007

/s/ David S. Torborg
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF AMY SERNYAK, and attachments, to be served upon be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 26th day of February, 2007.

/s/ David S. Torborg_____
David S. Torborg



**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc., et al., v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: right;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
---	--

Feb 26 2007
6:52 PM

SUBPOENA DUCES TECUM

TO: Amy Sernyak
Care of:
John K. Neal, Esq.
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

- **YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.**

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ **YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

PLACE OF DEPOSITION	DATE AND TIME
Morgan Lewis 1701 Market Street Philadelphia, PA 19103	March 6, 2007 at 9:00 AM

- ☒ **YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):**

Please see attached Exhibit A

PLACE	DATE AND TIME

- **YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.**

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for Defendants Abbott Laboratories, Inc.	February 26, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, DC 20001 (202) 879-3939

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs. This request does not seek documents contained at the offices of the United States Department of Health and Human Services – Office of Inspector General.

Definitions

1. “AWP” or “Average Wholesale Price” means any figures so categorized and periodically published by any Publisher.
2. “Concern,” “concerning,” “relating to,” or “relate to” means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. “Documents” means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.
4. “WAC” means “Wholesale Acquisition Cost.”

EXHIBIT Y-1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----x

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

6 PRICE LITIGATION : 01-CV-12257-PBS

7 vs. :

8 THIS DOCUMENT RELATES TO :

9 U.S. ex rel. Ven-A-Care of :

10 The Florida Keys, Inc. :

11 v. Abbott Laboratories, :

12 Inc., No. 06-CV-11337-PBS :

13 -----x

14
15 Video Tape Deposition of AMY JANE SERNYAK was taken

16 pursuant to notice at the Law Offices of Morgan

17 Lewis, 1701 Market Street, Philadelphia,

18 Pennsylvania, on Tuesday, March 6, 2007, beginning at

19 9:00 a.m., before Jeanne Christian, Court

20 Reporter-Notary Public and Michael Mullen, Video Tape

21 Operator, there being present.

22

Sernyak, Amy Jane

March 6, 2007

Philadelphia, PA

<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 Representing Abbott Laboratories:</p> <p>3 DAVID S. TORBORG, ESQUIRE</p> <p>4 HILARY A. RAMSEY, ESQUIRE</p> <p>5 JONES DAY</p> <p>6 51 Louisiana Avenue, N.W.</p> <p>7 Washington, D.C. 20001</p> <p>8 (202) 879-3939</p> <p>9</p> <p>10 Representing United States:</p> <p>11 JOHN K. NEAL, ESQUIRE</p> <p>12 NANCY W. BROWN, ESQUIRE</p> <p>13 US DEPARTMENT OF JUSTICE</p> <p>14 Civil Division, Fraud Section</p> <p>15 601 D Street, N.W., Room 9536</p> <p>16 Washington, D.C. 20004</p> <p>17 (202) 307-0405</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 CONTINUED</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2 Representing Sandoz, Inc.:</p> <p>3 VICTORIA R. ORLOWSKI, ESQUIRE</p> <p>4 WHITE & CASE LLP</p> <p>5 1155 Avenue of the Americas</p> <p>6 New York, NY 10036</p> <p>7 (212) 819-8254</p> <p>8</p> <p>9 Representing Roxane, Boehringer:</p> <p>10 CEYLAN A. EATHERTON, ESQUIRE</p> <p>11 KIRKLAND & ELLIS LLP</p> <p>12 200 East Randolph Drive</p> <p>13 Chicago, IL 60601</p> <p>14 (312) 469-7002</p> <p>15</p> <p>16 Representing Schering and Warrick:</p> <p>17 ERIC P. CHRISTOFFERSON, ESQUIRE</p> <p>18 ROPES & GRAY LLP</p> <p>19 One International Place</p> <p>20 Boston, MA 02110</p> <p>21 (617) 951-7976</p> <p>22 CONTINUED</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2 Representing Ven-A-Care of the Florida Keys:</p> <p>3 ROSLYN G. POLLACK, ESQUIRE</p> <p>4 BERGER & MONTAGUE, P.C.</p> <p>5 1622 Locust Street</p> <p>6 Philadelphia, PA 19103</p> <p>7 (215) 875-3000</p> <p>8</p> <p>9 Representing MDL Plaintiffs:</p> <p>10 JENNIFER FOUNTAIN CONNOLLY, ESQUIRE</p> <p>11 WEXLER/TORISEVA/WALLACE LLP</p> <p>12 One North LaSalle Street - Suite 2000</p> <p>13 Chicago, IL 60602</p> <p>14 (312) 346-2222</p> <p>15</p> <p>16 Representing Dey Companies</p> <p>17 NEIL MERKL, ESQUIRE</p> <p>18 KELLEY DRYE & WARREN LLP</p> <p>19 101 Park Avenue</p> <p>20 New York, NY 10178</p> <p>21 (212) 808-7811</p> <p>22 CONTINUED</p>	<p style="text-align: right;">Page 5</p> <p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2 Representing the Commonwealth of Massachusetts:</p> <p>3 RICHARD C. HEIDLAGE, ESQUIRE</p> <p>4 THE COMMONWEALTH OF MASSACHUSETTS</p> <p>5 Assistant Attorney General</p> <p>6 One Ashburton Place, Room 813</p> <p>7 Boston, MA 02108</p> <p>8 (617) 727-2200</p> <p>9</p> <p>10 Representing the City of New York, Counties of New</p> <p>11 York also represented by KMS and the State of Hawaii:</p> <p>12 MICHAEL WINGET-HERNANDEZ, ESQUIRE</p> <p>13 WINGET-HERNANDEZ, LLC</p> <p>14 3112 Windsor Road, #228</p> <p>15 Austin, TX 78703</p> <p>16 (512) 474-4095</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 CONTINUED</p>

2 (Pages 2 to 5)

Sernyak, Amy Jane

March 6, 2007

Philadelphia, PA

<p style="text-align: right;">Page 6</p> <p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2 APPEARING TELEPHONICALLY:</p> <p>3 Representing Schering Division:</p> <p>4 JASON GIST, ESQUIRE</p> <p>5 KEMPPPEL HUFFMAN & ELLIS</p> <p>6 255 East Fireweed Lane - Suite 200</p> <p>7 Anchorage, AK 99503</p> <p>8 (907) 277-1604</p> <p>9</p> <p>10 Representing Schering Warrick:</p> <p>11 JOBE DANGANAN, ESQUIRE</p> <p>12 ROPES & GRAY LLP</p> <p>13 One International Place</p> <p>14 Boston, MA</p> <p>15 (617) 951-7290</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 CONTINUED</p>	<p style="text-align: right;">Page 8</p> <p>1 CONTINUED</p> <p>2 APPEARING TELEPHONICALLY (CONTINUED):</p> <p>3 Representing Baxter</p> <p>4 LISA HALL, ESQUIRE</p> <p>5 DICKSTEIN SHAPIRO LLP</p> <p>6 1825 Eye Street NW</p> <p>7 Washington, DC 20006</p> <p>8 (202) 420-4129</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 APPEARING TELEPHONICALLY (CONTINUED):</p> <p>2 Representing Bristol Myers Squibb:</p> <p>3 JESSICA FEINGOLD, ESQUIRE</p> <p>4 HOGAN & HARTSON</p> <p>5 875 Third Avenue</p> <p>6 New York, NY 10022</p> <p>7 (212) 918-3636</p> <p>8</p> <p>9 Representing Amgen, Inc.:</p> <p>10 JOSEPH YOUNG, ESQUIRE</p> <p>11 HOGAN & HARTSON LLP</p> <p>12 111 S. Calvert Street - Suite 1600</p> <p>13 Baltimore, MD 21202</p> <p>14 (410) 659-2775</p> <p>15</p> <p>16 Representing the State of Alabama:</p> <p>17 CLINTON C. CARTER, ESQUIRE</p> <p>18 BEASLEY, ALLEN, CROW, METHVIN,</p> <p>19 PORTIS & MILES, P.C.</p> <p>20 218 Commerce Street</p> <p>21 Montgomery, AL 36104</p> <p>22 (334) 269-2343</p>	<p style="text-align: right;">Page 9</p> <p>1 C O N T E N T S</p> <p>2 WITNESS: AMY JANE SERNYAK PAGE</p> <p>3 Examination By Mr. Torborg 013</p> <p>4 Examination By Mr. Merkl 231</p> <p>5 Examination By Mr. Christofferson 296</p> <p>6 Examination By Ms. Eatherton 306</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 NUMBER DESCRIPTION PAGE</p> <p>10 Exhibit Abbott 028 Resume 017</p> <p>11 Exhibit Abbott 029 Subpoena 047</p> <p>12 Exhibit Abbott 030 HHD014-0254 - 76</p> <p>13 Report 064</p> <p>14 Exhibit Abbott 031 HHD008-0245 - 248 085</p> <p>15 Exhibit Abbott 032 HHD008-0249 086</p> <p>16 Exhibit Abbott 033 OEI 039400390 Report 097</p> <p>17 Exhibit Abbott 034 HHD008-0101 - 03 100</p> <p>18 Exhibit Abbott 035 HHD011-1169 - 1170 102</p> <p>19 Exhibit Abbott 036 HHD008-0242 Article 105</p> <p>20 Exhibit Abbott 037 HHD008-0163 Article 110</p> <p>21</p> <p>22 CONTINUED</p>

3 (Pages 6 to 9)

EXHIBIT Z

Sexton, Gail

May 20, 2008

Washington, DC

Page 1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL) MDL NO. 1456
 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION NO.
 PRICE LITIGATION) 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:)
 The City of New York v. Abbott Labs., et al.)
 (S.D.N.Y. No. 04-CV-06054))
 County of Suffolk v. Abbott Labs., et al.)
 (E.D.N.Y. No. 03-CV-229))
 County of Westchester v. Abbott Labs., et al.)
 (S.D.N.Y. No. 03-CV-6178))
 County of Rockland v. Abbott Labs., et al.)
 (S.D.N.Y. No. 03-CV-7055))
 [Caption continues on Next Page])

Washington, D.C.

Monday, May 20, 2008

9:30 a.m.

VIDEOTAPED DEPOSITION OF GAIL SEXTON

Sexton, Gail

May 20, 2008

Washington, DC

Page 2		Page 4	
1	County of Dutchess v. Abbott Labs., et al.)	1	County of St. Lawrence v. Abbott Labs., et al.)
2	(S.D.N.Y. No. 05-CV-06458))	2	(N.D.N.Y. No. 05-CV-00479))
3	County of Putnam v. Abbott Labs., et al.)	3	County of Jefferson v. Abbott Labs., et al.)
4	(S.D.N.Y. No. 05-CV-04740))	4	(N.D.N.Y. No. 05-CV-00715))
5	County of Washington v. Abbott Labs., et al.)	5	County of Lewis v. Abbott Labs., et al.)
6	(N.D.N.Y. No. 05-CV-00408))	6	(N.D.N.Y. No. 05-CV-00839))
7	County of Rensselaer v. Abbott Labs., et al.)	7	County of Chautauqua v. Abbott Labs., et al.)
8	(N.D.N.Y. No. 05-CV-00422))	8	(W.D.N.Y. No. 05-CV-06204))
9	County of Albany v. Abbott Labs., et al.)	9	County of Allegany v. Abbott Labs., et al.)
10	(N.D.N.Y. No. 05-CV-00425))	10	(W.D.N.Y. No. 05-CV-06231))
11	County of Warren v. Abbott Labs., et al.)	11	County of Cattaraugus v. Abbott Labs., et al.)
12	(N.D.N.Y. No. 05-CV-00468))	12	(W.D.N.Y. No. 05-CV-06242))
13	County of Greene v. Abbott Labs., et al.)	13	County of Genesee v. Abbott Labs., et al.)
14	(N.D.N.Y. No. 05-CV-00474))	14	(W.D.N.Y. No. 05-CV-06206))
15	County of Saratoga v. Abbott Labs., et al.)	15	County of Wayne v. Abbott Labs., et al.)
16	(N.D.N.Y. No. 05-CV-00478))	16	(W.D.N.Y. No. 05-CV-06138))
17	County of Columbia v. Abbott Labs., et al.)	17	County of Monroe v. Abbott Labs., et al.)
18	(N.D.N.Y. No. 05-CV-00867))	18	(W.D.N.Y. No. 05-CV-06148))
19	Essex County v. Abbott Labs., et al.)	19	County of Yates v. Abbott Labs., et al.)
20	(N.D.N.Y. No. 05-CV-00878))	20	(W.D.N.Y. No. 05-CV-06172))
21	[Caption continues on Next Page])	21	[Caption continues on Next Page])
22		22	
Page 3		Page 5	
1	County of Chenango v. Abbott Labs., et al.)	1	County of Niagara v. Abbott Labs., et al.)
2	(N.D.N.Y. No. 05-CV-00354))	2	(W.D.N.Y. No. 05-CV-06296))
3	County of Broome v. Abbott Labs., et al.)	3	County of Seneca v. Abbott Labs., et al.)
4	(N.D.N.Y. No. 05-CV-00456))	4	(W.D.N.Y. No. 05-CV-06370))
5	County of Onondaga v. Abbott Labs., et al.)	5	County of Orleans v. Abbott Labs., et al.)
6	(N.D.N.Y. No. 05-CV-00088))	6	(W.D.N.Y. No. 05-CV-06371))
7	County of Tompkins v. Abbott Labs., et al.)	7	County of Schuyler v. Abbott Labs., et al.)
8	(N.D.N.Y. No. 05-CV-00397))	8	(W.D.N.Y. No. 05-CV-06387))
9	County of Cayuga v. Abbott Labs., et al.)	9	County of Steuben v. Abbott Labs., et al.)
10	(N.D.N.Y. No. 05-CV-00423))	10	(W.D.N.Y. No. 05-CV-06223))
11	County of Madison v. Abbott Labs., et al.)	11	County of Chemung v. Abbott Labs., et al.)
12	(N.D.N.Y. No. 05-CV-00714))	12	(W.D.N.Y. No. 05-CV-06744))
13	County of Courtland v. Abbott Labs., et al.)	13	and,)
14	(N.D.N.Y. No. 05-CV-00881))	14	County of Nassau v. Abbott Labs., et al.)
15	County of Herkimer v. Abbott Labs., et al.)	15	(E.D.N.Y. No. 04-CV-5126))
16	(N.D.N.Y. No. 05-CV-00415))	16	-----
17	County of Oneida v. Abbott Labs., et al.)	17	
18	(N.D.N.Y. No. 05-CV-00489))	18	
19	County of Fulton v. Abbott Labs., et al.)	19	
20	(N.D.N.Y. No. 05-CV-00519))	20	
21	[Caption continues on Next Page])	21	
22		22	(CAPTIONS CONTINUED)

2 (Pages 2 to 5)

Sexton, Gail

May 20, 2008

Washington, DC

<p style="text-align: right;">Page 6</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF MASSACHUSETTS 3 ----- 4 IN RE: PHARMACEUTICAL) MDL NO. 1456 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION 6 PRICE LITIGATION) 01-CV-12257-PBS 7 ----- 8 THIS DOCUMENT RELATES TO) 9 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris 10 the Florida Keys, Inc.) 11 v.) Chief Magistrate 12 Abbott Laboratories, Inc.,) Judge Marianne B. 13 No. 06-CV-11337-PBS) Bowler 14 ----- 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>	<p style="text-align: right;">Page 8</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF MASSACHUSETTS 3 ----- 4 IN RE: PHARMACEUTICAL) MDL NO. 1456 5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION NO. 6 PRICE LITIGATION) 01-CV-12257-PBS 7 ----- 8 THIS DOCUMENT RELATES TO) Judge Patti B. Saris 9 State of California, ex rel.) 10 Ven-a-Care v. Abbott) 11 Laboratories, Inc., et al.) Magistrate Judge 12 Case No. 1:03-CV-11226-PBS) Marianne Bowler 13 ----- 14 15 16 17 18 19 20 21 22 (CAPTIONS CONTINUED)</p>
<p style="text-align: right;">Page 7</p> <p>1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA 2 THIRD JUDICIAL DISTRICT AT ANCHORAGE 3 ----- 4 STATE OF ALASKA,) 5 Plaintiff,) 6 vs.) Case No. 7 ALPHARMA BRANDED PRODUCTS) 3AN-06-12026 CI 8 DIVISION, INC., et al.) 9 Defendants.) 10 ----- 11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 12 IN AND FOR THE COUNTY OF MARICOPA 13 ----- 14 ROBERT J. SWANSON, individually) 15 and on behalf of himself and) 16 all others similarly situated,) 17 Plaintiff,) 18 vs.) No. CV-2002-04988 19 TAP PHARMACEUTICAL PRODUCTS,) Judge Janet Barton 20 INC., et al.,) 21 Defendants.) 22 -----</p>	<p style="text-align: right;">Page 9</p> <p>1 COMMONWEALTH OF KENTUCKY 2 FRANKLIN CIRCUIT COURT - DIV. II 3 ----- 4 COMMONWEALTH OF KENTUCKY, ex rel.) 5 JACK CONWAY, Attorney General) 6 Plaintiff,) Civil Action 7 vs.) No. 03-CI-1135 8 WARRICK PHARMACEUTICALS CORP., et al.,) 9 Defendants.) 10 ----- 11 12 IN THE COURT OF COMMON PLEAS 13 FIFTH JUDICIAL CIRCUIT 14 ----- 15 In re: South Carolina) 16 Pharmaceutical Pricing Litigation) STATE OF 17) SOUTH CAROLINA 18 This document relates to:) COUNTY OF 19 Civil Action No. 2006-CP-40-4390) RICHLAND 20 Civil Action No. 2006-CP-40-4399) 21 ----- 22</p>

3 (Pages 6 to 9)

Henderson Legal Services, Inc.

202-220-4158

www.hendersonlegalservices.com

Sexton, Gail

May 20, 2008

Washington, DC

<p style="text-align: right;">Page 10</p> <p>1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>2 STATE OF HAWAII</p> <p>3 -----</p> <p>4 STATE OF HAWAII,) Civil Nos.</p> <p>5 Plaintiff,) 06-1-0720-04 EEH</p> <p>6 vs.) 07-1-1639-09 EEH</p> <p>7 ABBOTT LABORATORIES, INC.,)</p> <p>8 et al.,) JUDGE EDEN</p> <p>9 Defendants.) ELIZABETH HIFO</p> <p>10 -----</p> <p>11 STATE OF HAWAII,)</p> <p>12 Plaintiff,)</p> <p>13 vs.)</p> <p>14 SCHERING CORPORATION; DOE)</p> <p>15 CORPORATIONS 1-100; DOE)</p> <p>16 ENTITIES 1-100,)</p> <p>17 Defendants.)</p> <p>18 -----</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 12</p> <p>1 A P P E A R A N C E S O F C O U N S E L</p> <p>2</p> <p>3 On behalf of the United States of America:</p> <p>4</p> <p>5 JAMES FAUCI, ESQ.</p> <p>6 U.S. Attorney's Office</p> <p>7 1 Courthouse Way</p> <p>8 Boston, Massachusetts 02210</p> <p>9 (617) 748-3298</p> <p>10</p> <p>11 -- and --</p> <p>12</p> <p>13 LAURIE A. OBEREMBT, ESQ.</p> <p>14 U.S. Department of Justice</p> <p>15 Civil Division</p> <p>16 P.O. Box 261, Ben Franklin Station</p> <p>17 Washington, D.C. 20044</p> <p>18 (202) 305-1088</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 11</p> <p>1 Videotaped deposition of GAIL SEXTON, held at</p> <p>2 the law offices of Ropes & Gray, 700 12th Street,</p> <p>3 N.W., Washington, D.C. 20005, the proceedings being</p> <p>4 recorded stenographically by Jonathan Wonnell, a</p> <p>5 Registered Professional Court Reporter and Notary</p> <p>6 Public of the District of Columbia, and transcribed</p> <p>7 under his direction.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 13</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the U.S. Department of Health and</p> <p>4 Human Services:</p> <p>5</p> <p>6 LESLIE M. STAFFORD, ESQ.</p> <p>7 U.S. Department of Health & Human Services</p> <p>8 Office of General Counsel, CMS Division</p> <p>9 7500 Security Boulevard</p> <p>10 Mail Stop C2-05-23</p> <p>11 Baltimore, Maryland 21244</p> <p>12 (410) 786-9655</p> <p>13</p> <p>14 On behalf of the State of California:</p> <p>15</p> <p>16 RITA HANSCOM, ESQ. (via phone)</p> <p>17 Supervising Deputy Attorney General</p> <p>18 Civil Prosecutions Unit</p> <p>19 P.O. Box 85266</p> <p>20 110 West A Street, #1100</p> <p>21 San Diego, California 92186</p> <p>22 (619)-688-6099</p>

4 (Pages 10 to 13)

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Sexton, Gail

May 20, 2008

Washington, DC

<p style="text-align: right;">Page 14</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the City of New York and all New York</p> <p>4 Counties other than Nassau and Orange; and the</p> <p>5 States of Alaska, Hawaii, Idaho, Illinois, Kentucky,</p> <p>6 South Carolina and Wisconsin:</p> <p>7</p> <p>8 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>9 Winget-Hernandez, LLC</p> <p>10 3112 Windsor Road, Suite 228</p> <p>11 Austin, Texas 78703</p> <p>12 (512) 858-4181</p> <p>13 michael@winget-hernandez.com</p> <p>14</p> <p>15 On behalf of Ven-A-Care of the Florida Keys, Inc.:</p> <p>16</p> <p>17 MARJORY P. ALBEE, ESQ. (via phone)</p> <p>18 Mager & Goldstein LLP</p> <p>19 1818 Market Street, Suite 3710</p> <p>20 Philadelphia, Pennsylvania 19103</p> <p>21 (215) 640-3280</p> <p>22 malbee@magergoldstein.com</p>	<p style="text-align: right;">Page 16</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Ethex Corporation:</p> <p>4</p> <p>5 MARK A. FLESSNER, ESQ.</p> <p>6 Sonnenschein, Nath & Rosenthal</p> <p>7 8000 Sears Tower</p> <p>8 233 South Wacker Drive</p> <p>9 Chicago, Illinois 60606</p> <p>10 (312) 876-7934</p> <p>11 mflessner@sonnenschein.com</p> <p>12</p> <p>13 On behalf of Merck & Company, Inc.:</p> <p>14</p> <p>15 KATHLEEN M. FONES, ESQ.</p> <p>16 Hughes & Hubbard</p> <p>17 1775 Eye Street, N.W.</p> <p>18 Washington, D.C. 20006-2401</p> <p>19 (202) 721-4671</p> <p>20 fones@hugheshubbard.com</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 15</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Abbott Laboratories:</p> <p>4</p> <p>5 ANDREA L. CARON, ESQ. (via phone)</p> <p>6 Jones Day</p> <p>7 77 West Wacker</p> <p>8 Chicago, Illinois 60601-1692</p> <p>9 (312) 782-3939</p> <p>10 acarons@jonesday.com</p> <p>11</p> <p>12 On behalf of Dey, Inc., Dey, L.P. and Mylan:</p> <p>13</p> <p>14 SARAH REID, ESQ.</p> <p>15 Kelley, Drye & Warren LLP</p> <p>16 101 Park Avenue</p> <p>17 New York, New York 10178</p> <p>18 (212) 808-7811</p> <p>19 sreid@kelleydrye.com</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 17</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Par Pharmaceuticals:</p> <p>4</p> <p>5 PAUL K. DUEFFERT, ESQ.</p> <p>6 Williams & Connolly, L.L.P.</p> <p>7 725 Twelfth Street, N.W.</p> <p>8 Washington, D.C. 20005</p> <p>9 (202) 434-5000</p> <p>10 pdueffert@wc.com</p> <p>11</p> <p>12 On behalf of Pharmacea and Pfizer:</p> <p>13</p> <p>14 EZRA DODD CHURCH, ESQ. (via phone)</p> <p>15 Morgan Lewis</p> <p>16 1701 Market Street</p> <p>17 Philadelphia, Pennsylvania 19103-2921</p> <p>18 (215) 963-5010</p> <p>19 echurch@morganlewis.com</p> <p>20</p> <p>21</p> <p>22</p>

5 (Pages 14 to 17)

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<p style="text-align: right;">Page 18</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Roxane Laboratories and Boehringer</p> <p>4 Ingelheim:</p> <p>5</p> <p>6 SETH A. GASTWIRTH, ESQ.</p> <p>7 Kirkland & Ellis</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601</p> <p>10 (312) 861-2464</p> <p>11 sgastwirth@kirkland.com</p> <p>12</p> <p>13 On behalf of Sandoz, Inc.:</p> <p>14</p> <p>15 MILANA SALZMAN, ESQ. (via phone)</p> <p>16 White & Case LLP</p> <p>17 1155 Avenue of the Americas</p> <p>18 New York, New York 10036-2787</p> <p>19 (212) 819-8711</p> <p>20 msalzman@whitecase.com</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 20</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 CONWAY BARKER, videographer</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 19</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Schering-Plough Corporation, Schering</p> <p>4 Corporation and Warrick Pharmaceuticals Corporation:</p> <p>5</p> <p>6 JOHN P. BUEKER, ESQ.</p> <p>7 Ropes & Gray</p> <p>8 One International Place</p> <p>9 Boston, Massachusetts 02110-2624</p> <p>10 (617) 951-7050</p> <p>11 john.bueker@ropesgray.com</p> <p>12</p> <p>13 On behalf of Teva Pharmaceuticals USA, Inc., IVAX</p> <p>14 Corporation, IVAX Pharmaceuticals, Inc. and</p> <p>15 Sicor, Inc.:</p> <p>16</p> <p>17 BRYAN M. STEPHANY, ESQ.</p> <p>18 Kirkland & Ellis</p> <p>19 655 Fifteenth Street, N.W., Suite 1200</p> <p>20 Washington, D.C. 20005</p> <p>21 (202) 879-5000</p> <p>22 bstephany@kirkland.com</p>	<p style="text-align: right;">Page 21</p> <p>1 C O N T E N T S</p> <p>2 WITNESS NAME PAGE</p> <p>3 GAIL SEXTON</p> <p>4 Examination By Mr. Bueker..... 028</p> <p>5 Examination By Mr. Winget-Hernandez..... 146</p> <p>6 Examination By Mr. Fauci..... 157</p> <p>7</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 NUMBER DESCRIPTION PAGE</p> <p>11 Exhibit Sexton 001, List of nine GCNs at issue</p> <p>12 in New York Counties</p> <p>13 expedited discovery</p> <p>14 (1 pg, no Bates)..... 030</p> <p>15 Exhibit Sexton 002, HHD 175-1787 - 1793..... 037</p> <p>16 Exhibit Sexton 003, HHD 170-0245..... 040</p> <p>17 Exhibit Sexton 004, HHD 175-1456..... 050</p> <p>18 Exhibit Sexton 005, HHD 175-1455..... 051</p> <p>19 Exhibit Sexton 006, HHD 175-1448..... 063</p> <p>20 Exhibit Sexton 007, HHD 175-1072..... 068</p> <p>21 Exhibit Sexton 008, HHD 175-1059 - 175-1063.... 078</p> <p>22 Exhibit Sexton 009, HHD 175-1058..... 088</p>

EXHIBIT AA



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
ALL CASES IN MDL NO. 1456. ¹	)	Magistrate Judge Marianne B. Bowler
)	
)	

CROSS-NOTICE OF DEPOSITION OF DENNIS SMITH

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, defendants Abbott Laboratories and Abbott Laboratories, Inc. (collectively, “Abbott”) hereby cross-notices the deposition of Dennis Smith for purposes of the above-captioned action. This deposition has been noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, a case originally filed in the United States District Court for the Southern District of Florida, Case No. 06-21303-CIV-ASG, and now part of MDL 1456 in the United States District Court for the District of Massachusetts (the “DOJ suit”). A copy of the notice of deposition in the DOJ suit is attached as Exhibit A.

Mr. Smith’s deposition will take place at Jones Day, 51 Louisiana Avenue, Washington, D.C., on February 26, 2008 beginning at 9:00 a.m. The deposition will take place before a notary public, or any other officer authorized to administer oaths. The deposition will be taken upon cross-examination.

The deposition will be recorded by stenographic and/or sound and visual means. Arrangements will be made so that counsel may participate by telephone if they wish. The

¹ This notice applies to all cases in the MDL in which Abbott Laboratories or Abbott Laboratories, Inc. is named, has appeared and in which discovery has not closed.

deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: February 14, 2008

/s/ Brian J. Murray

James R. Daly

Tina M. Tabacchi

Brian J. Murray

JONES DAY

77 West Wacker Drive, Suite 3500

Chicago, IL 60601

Tel: (312) 782-3939

Fax: (312) 782-8585

*Counsel for Defendants Abbott Laboratories and
Abbott Laboratories, Inc.*

CERTIFICATE OF SERVICE

I, Jeremy P. Cole, an attorney, hereby certify that I caused a true and correct copy of the foregoing CROSS-NOTICE OF DEPOSITION OF DENNIS SMITH to be served upon all counsel of record electronically via LexisNexis, this 14th day of February, 2008.

/s/ Jeremy P. Cole

Jeremy P. Cole

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

NOTICE OF DEPOSITION OF DENNIS SMITH

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Dennis Smith.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at Jones Day, 51 Louisiana Avenue, Washington, D.C., on February 26, 2008 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: February 14, 2008

/s/ David S. Torborg

James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing NOTICE OF DEPOSITION OF DENNIS SMITH to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 14th day of February, 2008.

/s/ David S. Torborg
David S. Torborg

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257-PBS</p> <p>Judge Patti B. Saris</p> <p>Magistrate Judge Marianne B. Bowler</p>
--	---

SUBPOENA DUCES TECUM

TO: Dennis Smith
c/o Ana Maria Martinez, Esq.
United States Attorney's Office
99 N.E. 4th Street, 3rd Floor
Miami, Florida 33132

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

DATE AND TIME

February 26, 2008 at 9:00 AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Please see attached Exhibit A

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

David S. Torborg
Attorney for Defendant Abbott Laboratories, Inc.

DATE

February 14, 2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001, (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and/or copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and/or copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises -- or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and/or copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, and/or copying. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and/or copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all documents in your personal possession relating in any way to the pricing of drugs and/or the administration or dispensing of drugs under Medicare or Medicaid.
3. A copy of any and all documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc. (Ven-A-Care), Centers for Medicare and Medicaid Services ("CMS") (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all documents in your personal possession concerning communications with the Department of Justice ("DOJ"), CMS, or Ven-A-Care regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. "AWP" or "Average Wholesale Price" means any figures so categorized and periodically published by any Publisher.
2. "Concern," "concerning," "relating to," or "relate to" means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any document or documents that might be deemed outside their scope by another construction.
3. "Documents" means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to, advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences or other meetings, contracts, correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms,

interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegrams, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT AA-1

Washington, DC

Page 1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -

4 IN RE: PHARMACEUTICAL) MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION

6 PRICE LITIGATION) 01-CV-12257-PBS

7 THIS DOCUMENT RELATES TO)

8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris

9 the Florida Keys, Inc.)

10 v.) Chief Magistrate

11 Abbott Laboratories, Inc.,) Judge Marianne B.

12 No. 06-CV-11337-PBS) Bowler

13 - - - - -

14 (caption continues on following pages)

15

16

17 Videotaped deposition of DENNIS G. SMITH

18 Volume I

19

20 Washington, D.C.

21 Tuesday, February 26, 2008

22 9:00 a.m.

Smith, Dennis G.

February 26, 2008

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT 2 IN AND FOR LEON COUNTY, FLORIDA 3 THE STATE OF FLORIDA 4 ex rel. 5 ----- 6 VEN-A-CARE OF THE FLORIDA KEYS,) 7 INC., a Florida Corporation, by and) 8 through its principal officers and) 9 directors, ZACHARY T. BENTLEY and) 10 T. MARK JONES,) 11 Plaintiffs,) Civil Action 12 vs.) No. 98-3032G 13 MYLAN LABORATORIES INC.; MYLAN) 14 PHARMACEUTICALS INC.; NOVOPHARM) Judge William 15 LTD., SCHEIN PHARMACEUTICAL, INC.;) L. Gary 16 TEVA PHARMACEUTICAL INDUSTRIES) 17 LTD.; TEVA PHARMACEUTICAL USA; and) 18 WATSON PHARMACEUTICALS, INC.,) 19 DEFENDANTS.) 20 ----- 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S O F C O U N S E L 2 3 On behalf of the United States of America: 4 5 ANA MARIA MARTINEZ, ESQ. 6 United States Department of Justice 7 99 N.E. 4th Street 8 Miami, Florida 33132 9 (305) 961-9431 10 ana.maria.martinez@usdoj.gov 11 12 13 On behalf of the U.S. Department of Health and 14 Human Services: 15 16 BRIAN A. KELLEY, ESQ. 17 U.S. Department of Health & 18 Human Services 19 Office of General Counsel, CMS Division 20 330 Independence Avenue, S.W., Room 5345 21 Washington, D.C. 20201 22 (202) 205-8702</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE CIRCUIT COURT OF 2 MONTGOMERY COUNTY, ALABAMA 3 ----- 4 STATE OF ALABAMA,) 5 Plaintiff,) 6 vs.) Case No. CV-2005-219 7 ABBOTT LABORATORIES, INC.,) Judge Charles Price 8 et al.,) 9 Defendants.) 10 ----- 11 12 13 Videotaped deposition of DENNIS G. SMITH, 14 held at the law offices of Jones Day, 51 Louisiana 15 Avenue, N.W., Washington, D.C. 20001-2113, the 16 proceedings being recorded stenographically by 17 Jonathan Wonnell, a Registered Professional Court 18 Reporter and Notary Public of the District of 19 Columbia, and transcribed under his direction. 20 21 22</p>	<p style="text-align: right;">Page 5</p> <p>1 A P P E A R A N C E S (Cont'd) 2 3 On behalf of the State of Alabama: 4 5 WINDY COCKRELL BITZER, ESQ. (via phone) 6 Hand Arendall LLC 7 1200 Park Place Tower 8 2001 Park Place North 9 Birmingham, Alabama 35203 10 (205) 324-4400 11 wbitzer@handarendall.com 12 13 14 On behalf of the State of California: 15 16 MATTHEW KILMAN, ESQ. (via phone) 17 Supervising Deputy Attorney General 18 Civil Prosecutions Unit 19 P.O. Box 85266 20 110 West A Street, #1100 21 San Diego, California 82186 22 (619) 688-6099</p>

2 (Pages 2 to 5)

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Smith, Dennis G.

February 26, 2008

Washington, DC

<p style="text-align: right;">Page 6</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the State of Florida:</p> <p>4</p> <p>5 GRETCHEN WALLACE, ESQ. (via phone)</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 (850) 414-3600</p> <p>10</p> <p>11</p> <p>12 On behalf of the City of New York and all New York</p> <p>13 Counties other than Nassau and Orange; the States</p> <p>14 of Wisconsin, Illinois, Kentucky, Idaho, Alaska,</p> <p>15 Hawaii, South Carolina and Mississippi:</p> <p>16</p> <p>17 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>18 Winget-Hernandez, LLC</p> <p>19 3112 Windsor Road, Suite 228</p> <p>20 Austin, Texas 78703</p> <p>21 (512) 858-4181</p> <p>22 michael@winget-hernandez.com</p>	<p style="text-align: right;">Page 8</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Bristol-Myers Squibb:</p> <p>4</p> <p>5 SANDHYA P. KAWATRA, ESQ. (via phone)</p> <p>6 Hogan & Hartson</p> <p>7 875 Third Avenue</p> <p>8 New York, New York 10022</p> <p>9 (212) 918-3000</p> <p>10 spkawatra@hhlaw.com</p> <p>11</p> <p>12</p> <p>13 On behalf of Dey, Inc., Dey, L.P. and Mylan:</p> <p>14</p> <p>15 NEIL MERKL, ESQ.</p> <p>16 Kelley, Drye & Warren LLP</p> <p>17 101 Park Avenue</p> <p>18 New York, New York 10178</p> <p>19 (212) 808-7811</p> <p>20 nmerkl@kelleydrye.com</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Ven-A-Care of the Florida Keys, Inc.:</p> <p>4</p> <p>5 JOSEPH C. WILSON, ESQ.</p> <p>6 Cotchett, Pitre & McCarthy</p> <p>7 San Francisco Airport Office Center</p> <p>8 840 Malcolm Road</p> <p>9 Burlingame, California 94010</p> <p>10 (650) 697-0577</p> <p>11 jwilson@cpmlegal.com</p> <p>12</p> <p>13 On behalf of Abbott Laboratories, Inc.:</p> <p>14</p> <p>15 R. CHRISTOPHER COOK, ESQ.</p> <p>16 SEAN P. MALONE, ESQ.</p> <p>17 Jones Day</p> <p>18 51 Louisiana Avenue, N.W.</p> <p>19 Washington, D.C. 20001-2113</p> <p>20 (202) 879-3939</p> <p>21 christophercook@jonesday.com</p> <p>22 spmalone@jonesday.com</p>	<p style="text-align: right;">Page 9</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Endo Pharmaceuticals:</p> <p>4</p> <p>5 VICTOR RORTVEDT, ESQ.</p> <p>6 Arnold & Porter</p> <p>7 555 Twelfth Street, N.W.</p> <p>8 Washington, D.C. 20004</p> <p>9 (202) 942-5000</p> <p>10</p> <p>11</p> <p>12 On behalf of Roxane Laboratories and</p> <p>13 Boehringer Ingelheim:</p> <p>14</p> <p>15 JOHN W. REALE, ESQ.</p> <p>16 Kirkland & Ellis</p> <p>17 200 East Randolph Drive</p> <p>18 Chicago, Illinois 60601</p> <p>19 (312) 861-3452</p> <p>20 jreale@kirkland.com</p> <p>21</p> <p>22</p>

3 (Pages 6 to 9)

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Page 10	Page 12
<div>1 A P P E A R A N C E S (Cont'd)</div> <div>2</div> <div>3 On behalf of Sandoz, Inc.:</div> <div>4</div> <div>5 LARA A. BERWANGER, ESQ. (via phone)</div> <div>6 White & Case LLP</div> <div>7 1155 Avenue of the Americas</div> <div>8 New York, New York 10036-2787</div> <div>9 (212) 819-2549</div> <div>10 lberwanger@whitecase.com</div> <div>11</div> <div>12</div> <div>13 On behalf of Schering-Plough Corporation,</div> <div>14 Schering Corporation and Warrick</div> <div>15 Pharmaceuticals Corporation:</div> <div>16</div> <div>17 GINGER APPLEBERRY, ESQ. (via phone)</div> <div>18 Locke, Liddell & Sapp</div> <div>19 2200 Ross Avenue, Suite 2200</div> <div>20 Dallas, Texas 75201</div> <div>21 (214) 740-8459</div> <div>22 gappleberry@lockeliddell.com</div>	<div>1 C O N T E N T S</div> <div>2 WITNESS NAME PAGE</div> <div>3 DENNIS G. SMITH</div> <div>4 Examination By Mr. Cook..... 016</div> <div>5</div> <div>6</div> <div>7 E X H I B I T S</div> <div>8 NUMBER DESCRIPTION PAGE</div> <div>9 Exhibit Abbott-Smith 485, Resume of Dennis G.</div> <div>10 Smith (no Bates ref). 018</div> <div>11 Exhibit Abbott-Smith 486, HHD101-0489 - 0492... 118</div> <div>12 Exhibit Abbott-Smith 487, Smith letter to Scully</div> <div>13 dated 10/22/02</div> <div>14 (redacted, no Bates</div> <div>15 ref)..... 121</div> <div>16</div> <div>17</div> <div>18 (Exhibit Abbott-Smith 486 was retained by Mr. Cook)</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div>
Page 11	Page 13
<div>1 A P P E A R A N C E S (Cont'd)</div> <div>2</div> <div>3 ALSO PRESENT:</div> <div>4</div> <div>5 CONWAY BARKER, videographer</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div>	<div>1 P R O C E E D I N G S</div> <div>2 (9:25 a.m.)</div> <div>3 THE VIDEOGRAPHER: In the United States</div> <div>4 District Court for the District of Massachusetts</div> <div>5 In Re: Pharmaceutical Industry Average Wholesale</div> <div>6 Price Litigation, related to the United States of</div> <div>7 America ex rel. Ven-A-Care of the Florida Keys</div> <div>8 Incorporated versus Abbott Laboratories</div> <div>9 Incorporated et al., Case Number 01-CV-12257</div> <div>10 (PBS) and other cross noticed cases, this is the</div> <div>11 deposition of Dennis G. Smith.</div> <div>12 Today's date is February 26th 2008.</div> <div>13 The location is Jones Day, 51 Louisiana Avenue,</div> <div>14 Northwest, Washington, D.C. Will counsel please</div> <div>15 identify yourselves and state whom you represent?</div> <div>16 MR. COOK: Christopher Cook from Jones</div> <div>17 Day. We represent Abbott Laboratories, Inc.</div> <div>18 MR. MERKL: Neil Merkl from Kelley</div> <div>19 Drye. We represent the Dey companies.</div> <div>20 MR. REALE: John Reale from Kirkland &</div> <div>21 Ellis and I represent the Boehringer entities.</div> <div>22 MS. MARTINEZ: Ani Martinez. I</div>

Washington, DC

Page 242

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 ----- X

4 IN RE PHARMACEUTICAL)

5 INDUSTRY AVERAGE WHOLESALE) MDL No. 1456

6 PRICE LITIGATION,) Civil Action No

7 THIS DOCUMENT RELATES TO:) 01-12257-PBS

8 United States of America,) Judge Patti B.

9 ex rel. Ven-A-Care of the) Saris

10 Florida Keys, Inc., v.) Mag. Judge

11 Abbott Laboratories Inc.) Marianne Bowler

12 Civil Action No.)

13 06-11337-PBS)

14 ----- X

15 (cross-captions on following pages)

16
17 Washington, D.C.

18 Thursday, March 27, 2008

19 9:40 a.m.

20
21 Videotaped deposition of DENNIS G. SMITH

22 Volume II

Washington, DC

<p style="text-align: right;">Page 243</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF MASSACHUSETTS</p> <p>3 -----</p> <p>4 IN RE: PHARMACEUTICAL) MDL NO. 1456</p> <p>5 INDUSTRY AVERAGE WHOLESAL) CIVIL ACTION:</p> <p>6 PRICE LITIGATION) 01-CV-12257-PBS</p> <p>7 -----</p> <p>8 THIS DOCUMENT RELATES TO:) JUDGE PATTI B. SARIS</p> <p>9 ALL CASES IN MDL NO. 1456) MAGISTRATE JUDGE</p> <p>10 ----- MARIANNE B. BOWLER</p> <p>11</p> <p>12 IN THE CIRCUIT COURT OF</p> <p>13 MONTGOMERY COUNTY, ALABAMA</p> <p>14 -----</p> <p>15 IN THE MATTER OF:)</p> <p>16 ALABAMA MEDICAID) MASTER DOCKET NO.</p> <p>17 PHARMACEUTICAL AVERAGE) CV-2005-219</p> <p>18 WHOLESAL PRICE LITIGATION)</p> <p>19 -----</p> <p>20 THIS DOCUMENT RELATES TO:)</p> <p>21 ALL ACTIONS)</p> <p>22 -----</p>	<p style="text-align: right;">Page 245</p> <p>1 A P P E A R A N C E S O F C O U N S E L</p> <p>2</p> <p>3 On behalf of the United States of America:</p> <p>4</p> <p>5 ANA MARIA MARTINEZ, ESQ.</p> <p>6 United States Department of Justice</p> <p>7 99 N.E. 4th Street</p> <p>8 Miami, Florida 33132</p> <p>9 (305) 961-9431</p> <p>10 ana.maria.martinez@usdoj.gov</p> <p>11</p> <p>12</p> <p>13 On behalf of the U.S. Department of Health &</p> <p>14 Human Services:</p> <p>15</p> <p>16 BRIAN A. KELLEY, ESQ.</p> <p>17 U.S. Department of Health & Human Services</p> <p>18 Office of General Counsel, CMS Division</p> <p>19 330 Independence Avenue, S.W., Room 5345</p> <p>20 Washington, D.C. 20201</p> <p>21 (202) 205-8702</p> <p>22</p>
<p style="text-align: right;">Page 244</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 DISTRICT OF MASSACHUSETTS</p> <p>3 -----X</p> <p>4 In re: PHARMACEUTICAL)</p> <p>5 INDUSTRY AVERAGE WHOLESAL)</p> <p>6 PRICE LITIGATION)</p> <p>7 -----) MDL NO. 1456</p> <p>8 THIS DOCUMENT RELATES TO:) Master File No.</p> <p>9 State of California ex rel.) 01-12257-PBS</p> <p>10 Ven-A-Care v. Abbott) Judge Patti B. Saris</p> <p>11 Laboratories, Inc., et al.)</p> <p>12 Case # 1:03-CV-11226-PBS)</p> <p>13 -----X</p> <p>14 Videotaped deposition of DENNIS G. SMITH,</p> <p>15 called for examination by counsel for Abbott</p> <p>16 Laboratories, defendants in the above-entitled</p> <p>17 matter, taken at the law offices of Jones Day, 51</p> <p>18 Louisiana Avenue, N.W., Washington, D.C., the</p> <p>19 proceedings being recorded stenographically by</p> <p>20 Deborah Hommer, a Registered Professional Reporter</p> <p>21 and Notary Public of the District of Columbia, and</p> <p>22 transcribed under her direction.</p>	<p style="text-align: right;">Page 246</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On Behalf of Dey, Inc., Dey, L.P., and Mylan:</p> <p>4</p> <p>5 NEIL MERKL, ESQ.</p> <p>6 Kelley, Drye & Warren, LLP</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 (212) 808-7811</p> <p>10 nmerkl@kelleydrye.com</p> <p>11</p> <p>12</p> <p>13 On Behalf of Abbott Laboratories:</p> <p>14</p> <p>15 R. CHRISTOPHER COOK, ESQ.</p> <p>16 Jones Day</p> <p>17 51 Louisiana Avenue, N.W.</p> <p>18 Washington, D.C. 20001-2113</p> <p>19 (202) 879-3939</p> <p>20 ccook@jonesday.com</p> <p>21</p> <p>22 (CONTINUED)</p>

2 (Pages 243 to 246)

Washington, DC

<p style="text-align: right;">Page 247</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 On Behalf of the City of New York and all New York</p> <p>3 Counties other than Nassau and Orange; the States</p> <p>4 of Wisconsin, Illinois, Kentucky, Idaho, Alaska,</p> <p>5 Hawaii, South Carolina and Mississippi:</p> <p>6</p> <p>7 MICHAEL WINGET-HERNANDEZ, ESQ.</p> <p>8 Winget-Hernandez, LLC</p> <p>9 101 S. College Street</p> <p>10 Dripping Springs, Texas 78620</p> <p>11 (512) 858-4181</p> <p>12 michael@winget-hernandez.com</p> <p>13</p> <p>14 On Behalf of the State of Alabama</p> <p>15</p> <p>16 PAUL LYNN, ESQ. (via phone)</p> <p>17 Beasley, Allen, Crow, Methvin, Portis</p> <p>18 & Miles, P.C.</p> <p>19 218 Commerce Street</p> <p>20 Montgomery, Alabama 36104</p> <p>21 (800) 898-2034</p> <p>22 paul.lynn@beasleyallen.com</p>	<p style="text-align: right;">Page 249</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On Behalf of Roxane Laboratories and Boehringer</p> <p>4 Ingelheim</p> <p>5</p> <p>6 ERIC GORTNER, ESQ. (via phone)</p> <p>7 Kirkland & Ellis</p> <p>8 200 East Randolph Drive</p> <p>9 Chicago, Illinois 60601</p> <p>10 (312) 861-3452</p> <p>11 egortner@kirkland.com</p> <p>12</p> <p>13</p> <p>14 On Behalf of Sandoz, Inc.</p> <p>15</p> <p>16 MILANA SALZMAN, ESQ. (via phone)</p> <p>17 White & Case, LLP</p> <p>18 1155 Avenue of the Americas</p> <p>19 New York, New York 10036-2787</p> <p>20 (212) 819-2549</p> <p>21 msalzman@whitecase.com</p> <p>22</p>
<p style="text-align: right;">Page 248</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On Behalf of the State of Florida</p> <p>4</p> <p>5 MARY S. MILLER, ESQ. (via phone)</p> <p>6 Office of the Attorney General of Florida</p> <p>7 PL-01, The Capitol</p> <p>8 Tallahassee, Florida 32399-1050</p> <p>9 (850) 414-3600</p> <p>10 mary_miller@oag.state.fl.us</p> <p>11</p> <p>12</p> <p>13 On Behalf of Bristol-Myers Squibb</p> <p>14</p> <p>15 SANDHYA P. KAWATRA, ESQ. (via phone)</p> <p>16 Hogan & Hartson</p> <p>17 875 Third Avenue</p> <p>18 New York, New York 10022</p> <p>19 (212) 918-3542</p> <p>20 spkawatra@hhlaw.com</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 250</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 On Behalf of Schering-Plough Corporation, Schering</p> <p>3 Corporation and Warrick Pharmaceuticals Corporation</p> <p>4</p> <p>5 BILLY WELLS, ESQ. (via phone)</p> <p>6 Locke, Lord, Bissell & Liddell</p> <p>7 2200 Ross Avenue</p> <p>8 Suite 2200</p> <p>9 Dallas, Texas 75201</p> <p>10 (214) 740-8459</p> <p>11 bwells@lockeliddell.com</p> <p>12</p> <p>13 On Behalf of Endo Pharmaceuticals, Inc.</p> <p>14</p> <p>15 VICTOR RORTVEDT, ESQ.</p> <p>16 Arnold & Porter, LLP</p> <p>17 555 Twelfth Street, N.W.</p> <p>18 Washington, D.C. 20004</p> <p>19 (202) 942-5412</p> <p>20 victor.rortvedt@aporter.com</p> <p>21</p> <p>22 Also Present: Conway Barker, Videographer</p>

3 (Pages 247 to 250)

Washington, DC

Page 251	Page 253
<p>1 I N D E X</p> <p>2 WITNESS: DENNIS G. SMITH - VOL. II PAGE</p> <p>3 Examination By Mr. Cook..... 256</p> <p>4 Examination By Mr. Merkl..... 354</p> <p>5 Examination By Mr. Gortner..... 449</p> <p>6 Examination By Ms. Kawatra..... 553</p> <p>7 Examination By Mr. Winget-Hernandez..... 556</p> <p>8 Examination By Mr. Cook..... 572</p> <p>9 Examination By Mr. Merkl..... 585</p>	<p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE VIDEOGRAPHER: In the United States</p> <p>4 District Court for the District of Massachusetts</p> <p>5 In Re: Pharmaceutical Industry Average Wholesale</p> <p>6 Price Litigation related to the United States of</p> <p>7 America, ex rel. Ven-A-Care of the Florida Keys,</p> <p>8 Incorporated, versus Abbott Laboratories,</p> <p>9 Incorporated, et al., case number 01-CV-12257-</p> <p>10 PBS.</p>
<p>11 E X H I B I T S</p> <p>12 NUMBER DESCRIPTION PAGE</p> <p>13 Exhibit Abbott 585-Transcript of hearing on</p> <p>14 Medicaid prescription drug</p> <p>15 reimbursement dated 12/7/04. 329</p> <p>16 Exhibit Dey 175 -Section 1927 of the Social</p> <p>17 Security Act..... 356</p> <p>18 Exhibit Dey 173A -CBO report: How the Medicaid</p> <p>19 rebate on prescription drugs</p> <p>20 affects pricing in the</p> <p>21 pharmaceutical industry</p> <p>22 from 1/96..... 416</p>	<p>11 This is the deposition of Dennis G.</p> <p>12 Smith, volume 2. Today's date is March 27, 2008.</p> <p>13 The location of the deposition is Jones Day, 51</p> <p>14 Louisiana Avenue, Northwest, Washington, D.C.</p> <p>15 Will counsel please identify yourselves</p> <p>16 and state whom you represent.</p> <p>17 MR. COOK: Christopher Cook from Jones</p> <p>18 Day. We represent Abbott Laboratories.</p> <p>19 MR. MERKL: Neil Merkl from Kelly, Drye</p> <p>20 representing Dey.</p> <p>21 MR. RORTVEDT: Victor Rortvedt from</p> <p>22 Arnold & Porter representing Endo</p>
Page 252	Page 254
<p>1 E X H I B I T S (CONTINUED)</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit BMS 001 -Letter from Smith to</p> <p>4 several state Medicaid</p> <p>5 directors dated 9/18/02..... 552</p>	<p>1 Pharmaceuticals.</p> <p>2 MS. MARTINEZ: Ani Martinez for the</p> <p>3 United States.</p> <p>4 MR. KELLEY: Brian Kelley for the U.S.</p> <p>5 Department of Health and Human Services.</p> <p>6 MR. WINGET-HERNANDEZ: Michael Winget-</p> <p>7 Hernandez for the City of New York, the New York</p> <p>8 counties in MDL 1456, except for Nassau and</p> <p>9 Orange, the States of Illinois, Wisconsin,</p> <p>10 Kentucky, South Carolina, Idaho, Hawaii, Alaska</p> <p>11 to the extent that they have been cross-noticed</p> <p>12 here.</p> <p>13 THE VIDEOGRAPHER: Those on the</p> <p>14 telephone, could you please identify yourselves.</p> <p>15 MR. GORTNER: Eric Gortner from</p> <p>16 Kirkland & Ellis for Roxane Laboratories,</p> <p>17 Boehringer Ingelheim Corporation, and affiliated</p> <p>18 entities, including Ben Venue Laboratories in the</p> <p>19 cross-notice states and all other Boehringer</p> <p>20 entities in the cross-notice states.</p> <p>21 MR. WELLS: Billy Wells with Locke,</p> <p>22 Lord, Bissell & Liddell representing Braun,</p>

EXHIBIT BB



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	)	MDL No.1456
	)	Master File No. 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)	
<i>United States of America ex rel. Ven-A-Care of</i>)	
<i>the Florida Keys, Inc., et al. v. Boehringer</i>)	
<i>Ingelheim Corporation, et al., Civil Action No.</i>)	
07-10248-PBS)	

CROSS-NOTICE OF CONTINUED DEPOSITION OF DON THOMPSON

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, the Roxane Defendants, by their undersigned attorneys, hereby cross-notice the continued deposition of Don Thompson for the purposes of the above-captioned action. This deposition was noticed in *United States ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.*, No. 06-CV-11337-PBS, a case pending in the United States District Court for the District of Massachusetts (“Abbott Action”). A copy of the continued deposition notice, served on April 14, 2008 in the Abbott Action, is attached as Exhibit 1 hereto.

Mr. Thompson’s deposition will continue at 9:00 a.m. on April 23, 2008 before a duly qualified officer and continue on successive days as necessary. The deposition shall be held at the law offices of Jones Day, 51 Louisiana Ave. N.W., Washington, D.C. 20001, and will be recorded by stenographic and/or sound and visual means. The deposition will be taken upon cross-examination. Arrangements will be made so that counsel may participate by telephone if they wish. The deposition is being taken for the purposes of discovery, for use at trial, and for other such purposes as permitted under the Federal Rules of Civil Procedure.

Dated: April 14, 2008

/s/ Eric T. Gortner
Helen E. Witt, P.C.
Eric T. Gortner
Jared T. Heck
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

/s/ Bruce A. Singal
Bruce A. Singal, BBO #464420
Richard Goldstein, BBO #565482
DONOGHUE BARRETT & SINGAL, P.C.
One Beacon Street
Boston, MA 02018
Telephone: (617) 720-5090
Facsimile: (617) 720-5092

*Counsel for Defendants Boehringer Ingelheim
Corp., Boehringer Ingelheim Pharmaceuticals,
Inc., Boehringer Ingelheim Roxane, Inc., and
Roxane Laboratories, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on April 14, 2008, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ Eric T. Gortner
Eric T. Gortner

EXHIBIT BB-1

United States of America (F. Don Thompson)

1

Saris

30(b)(6)

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -
4 IN RE: PHARMACEUTICAL) MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
6 PRICE LITIGATION) 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO)
8 U.S. ex rel. Ven-a-Care of) Judge Patti B.
9 the Florida Keys, Inc.)
10 v.) Chief Magistrate
11 Abbott Laboratories, Inc.,) Judge Marianne B.
12 No. 06-CV-11337-PBS) Bowler
13 - - - - -

14 (captions continue on following pages)

15
16 Washington, D.C.
17 Friday, March 28, 2008
18 8:00 a.m.

19
20 Videotaped deposition of F. DON THOMPSON as
21 witness for the UNITED STATES OF AMERICA
22 Volume I

United States of America (F. Don Thompson)

□

2

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
2 IN AND FOR LEON COUNTY, FLORIDA
3 THE STATE OF FLORIDA
4 ex rel.
5 - - - - -
6 VEN-A-CARE OF THE FLORIDA KEYS,)
7 INC., a Florida Corporation, by and)
8 through its principal officers and)
9 directors, ZACHARY T. BENTLEY and)
10 T. MARK JONES,)
11 Plaintiffs,) Civil Action
12 vs.) No. 98-3032G
13 MYLAN LABORATORIES INC.; MYLAN)
14 PHARMACEUTICALS INC.; NOVOPHARM) Judge
15 LTD., SCHEIN PHARMACEUTICAL, INC.;) L. Gary
16 TEVA PHARMACEUTICAL INDUSTRIES)
17 LTD.; TEVA PHARMACEUTICAL USA; and)
18 WATSON PHARMACEUTICALS, INC.,)
19 DEFENDANTS.)
20 - - - - -

william

United States of America (F. Don Thompson)

22

□

3

1 videotaped 30(b)(6) deposition of THE UNITED
2 STATES OF AMERICA by F. DON THOMPSON, held at the
3 law offices of Jones Day, 51 Louisiana Avenue,
N.W.,
4 Washington, D.C. 20001-2113, the proceedings being
5 recorded stenographically by Jonathan Wonnell, a
6 Registered Professional Court Reporter and Notary
7 Public of the District of Columbia, and
transcribed
8 under his direction.

9

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12

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United States of America (F. Don Thompson)

19

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□

4

1 A P P E A R A N C E S O F C O U N S E L

2

3 On behalf of the United States of America:

4 JUSTIN DRAYCOTT, ESQ.

5 U.S. Department of Justice

6 Civil Division

7 P.O. Box 261, Ben Franklin Station

8 Washington, D.C. 20044

9 (202) 305-9300

10 justin.draycott@usdoj.gov

11

and

12 On behalf of the U.S. Department of Health

13 Human Services:

14 LESLIE M. STAFFORD, ESQ.

Services

15 U.S. Department of Health & Human

16 United States of America (F. Don Thompson)
17 Office of General Counsel, CMS Division
18 7500 Security Boulevard
19 Mail Stop C2-05-23
20 Baltimore, Maryland 21244
21 (410) 786-9655
22

□

5

1 A P P E A R A N C E S (Cont'd)

2

3 On behalf of the State of Florida:

4 MARY S. MILLER, ESQ. (via phone)

5 Office of the Attorney General of
Florida

6 PL-01, The Capitol

7 Tallahassee, Florida 32399-1050

8 (850) 414-3600

9 mary_miller@oag.state.fl.us

10

11 On behalf of the City of New York and all
New

12 York Counties other than Nassau and

13 Orange; and the States of Alaska,
Page 5

Hawaii, United States of America (F. Don Thompson)
14 Idaho, Illinois, Kentucky, South
Carolina
15 and Wisconsin:
16 MICHAEL WINGET-HERNANDEZ, ESQ.
17 winget-Hernandez, LLC
18 3112 Windsor Road, Suite 228
19 Austin, Texas 78703
20 (512) 858-4181
21 michael@winget-hernandez.com
22

□

6

1 A P P E A R A N C E S (Cont'd)
2
3 On behalf of Abbott Laboratories, Inc.:
4 R. CHRISTOPHER COOK, ESQ.
5 Jones Day
6 51 Louisiana Avenue, N.W.
7 Washington, D.C. 20001-2113
8 (202) 879-3939
9 christophercook@jonesday.com
10

11 United States of America (F. Don Thompson)
12 On behalf of Dey, Inc., Dey, L.P. and Mylan:
13 SARAH L. REID, ESQ.
14 Kelley, Drye & Warren LLP
15 101 Park Avenue
16 New York, New York 10178
17 (212) 808-7720
18 sreid@kelleydrye.com
19
20
21 ALSO PRESENT:
22 CONWAY BARKER, videographer

□

	1	C O N T E N T S
	2	
PAGE	3	WITNESS NAME
	4	F. DON THOMPSON
013	5	Examination By Mr. Cook.....
	6	
	7	
	8	E X H I B I T S
		Page 7

EXHIBIT CC



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

AMENDED NOTICE OF DEPOSITION OF DAVID TIMUS

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of David Timus.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of the Center for Medicare & Medicaid Services, 7111 Security Boulevard, Baltimore, Maryland 21244 on June 6, 2007 beginning at 9:00 a.m. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: May 25, 2007

/s/ R. Christopher Cook
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, R. Christopher Cook, an attorney, hereby certify that I caused a true and correct copy of the foregoing AMENDED NOTICE OF DEPOSITION OF DAVID TIMUS to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 25th day of May, 2007.

/s/ R. Christopher Cook
R. Christopher Cook

EXHIBIT CC-1

Timus, Sr, David M

1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -X
4 IN RE: PHARMACEUTICAL : MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESAL : CIVIL ACTION:
6 PRICE LITIGATION : 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO :
8 U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris
9 the Florida Keys, Inc. v. :
10 Abbott Laboratories, Inc., : Chief Magistrate
11 No. 06-CV-11337-PBS : Judge Marianne B.
12 - - - - -X Bowler
13 IN THE CIRCUIT COURT OF
14 MONTGOMERY COUNTY, ALABAMA
15 - - - - -X
16 STATE OF ALABAMA, :
17 Plaintiff, :
18 vs. : Case No.: CV-05-219
19 ABBOTT LABORATORIES, INC., : Judge Charles Price
20 et al., :
21 Defendants.:
22 - - - - -X

Timus, Sr, David M

□

2

1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT
2 IN AND FOR LEON COUNTY, FLORIDA

3

4 THE STATE OF FLORIDA
5 ex rel.

6 - - - - - X

7 VEN-A-CARE OF THE FLORIDA :
8 KEYS, INC., a Florida :
9 Corporation, by and through its :
10 principal officers and directors, :
11 ZACHARY T. BENTLEY and :
12 T. MARK JONES, :
13 Plaintiffs, :

14 vs. : Civil Action

15 MYLAN LABORATORIES INC.; MYLAN : No.: 98-3032G
16 PHARMACEUTICALS INC.; NOVOPHARM : Judge:

william

17 LTD., SCHEIN PHARMACEUTICAL, INC.;: L. Gary
18 TEVA PHARMACEUTICAL INDUSTRIES :
19 LTD., TEVA PHARMACEUTICAL USA; :
20 and WATSON PHARMACEUTICALS, INC., :
21 Defendants, :

22 - - - - - X

Timus, Sr, David M

□

3

31

1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
2 STATE OF MISSOURI
3 - - - - - X
4 STATE OF MISSOURI, ex rel., :
5 JEREMIAH W. (JAY) NIXON, :
6 Attorney General, :
7 and :
8 MISSOURI DEPARTMENT OF SOCIAL :
9 SERVICES, DIVISION OF MEDICAL : Case No.:
10 SERVICES, : 054-1216
11 Plaintiffs, : Division No.
12 vs. :
13 DEY INC., DEY, L.P., MERCK KGaA, :
14 EMD, INC., WARRICK :
15 PHARMACEUTICALS CORPORATION, :
16 SCHERING-PLOUGH CORPORATION, and :
17 SCHERING CORPORATION, :
18 Defendants, :
19 - - - - - X

Timus, Sr, David M

21

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4

TIMUS, 1 Videotaped Deposition of DAVID M.
2 SR., a witness herein, called for examination by
3 counsel for Abbott Laboratories in the
4 above-entitled matter, pursuant to notice, the
5 witness being duly sworn by Robert M. Jakupciak, a
6 Notary Public in and for the District of Columbia,
7 taken at the offices of Center for Medicare &
8 Medicaid Services, 7111 Security Blvd., Baltimore,
9 Maryland, 21244, at 11:20 a.m., on June 6, 2007,
10 and the proceedings being taken down by Stenotype
11 by Robert M. Jakupciak, RPR.

12

13

14

15

16

17

18

Timus, Sr, David M

19

20

21

22

□

5

1 APPEARANCES:

2

3 On behalf of the United States of America:

4

5 ANA MARIA MARTINEZ, ESQUIRE

6 U.S. Department of Justice

7 99 N.E. 4th Street

8 Miami, Florida 33132

9 (305) 961-9431

10

11 On behalf of the U.S. Department of

12 Health and Human Services:

13

14 TROY A. BARSKY, ESQUIRE

15 U.S. Department of Health and

16 Human Services

17 Timus, Sr, David M
C2-05-23
18 7500 Security Blvd.
19 Baltimore, Maryland 21244-1850
20 (410) 786-8873
21
22 (CONTINUED)

□

6

1 APPEARANCES: (CONTINUED)
2
3 On behalf of Abbott Laboratories:
4
5 LOUIS P. GABEL, ESQUIRE
6 Jones Day
7 51 Louisiana Avenue, N.W.
8 Washington, D.C. 20001
9 (202) 879-5411
10
11 (The following attorneys present by phone.)
12
13 On behalf of Dey Companies and Mylan:
14
15 CLIFFORD KATZ, ESQUIRE

Timus, Sr, David M

16 Kelly Drye & Warren LLP

17 101 Park Avenue

18 New York, New York 10178

19 (212) 808-7609

20

21

22 (CONTINUED)

□

7

1 APPEARANCES: (CONTINUED)

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3 On behalf of Roxane Laboratories and

4 Boehringer-Ingelheim and affiliated entities:

5

6 JARED THOMAS HECK, ESQUIRE

7 Kirkland & Ellis LLP

8 200 East Randolph Drive

9 Chicago, Illinois 60601

10 (312) 469-7087

11

12 On behalf of Baxter Healthcare Corporation:

13

14 Timus, Sr, David M
TINA DUCHARME REYNOLDS, ESQUIRE
15 Dickstein Shapiro LLP
16 1825 Eye Street, N.W.
17 Washington, D.C. 20006
18 (202) 420-4114
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20
21
22 (CONTINUED)

□

8

1 APPEARANCES: (CONTINUED)
2
3 On behalf of KMS New York Counties:
4
5 MICHAEL WINGET-HERNANDEZ, ESQUIRE
6 Winget-Hernandez, LLC
7 3112 Windsor Road, #228
8 Austin, Texas 78703
9
10
11
12

Timus, Sr, David M

13
14
15
16
17
18
19
20
21
22

Also Present
Videographer: Conway Barker

□

9

1	C O N T E N T S
2	
3	THE WITNESS: DAVID M. TIMUS, SR.
4	Examination By Mr. Gabel.....
5	
6	
7	E X H I B I T S
8	
9	(NONE MARKED)

PAGE
011

EXHIBIT DD



**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
)
) MDL No. 1456
)

) Civil Action No. 01-12257-PBS
)

THIS DOCUMENT RELATES TO:

) Judge Patti B. Saris
)

ALL ACTIONS ¹

) Magistrate Judge Marianne B. Bowler
)
)

AMENDED CROSS-NOTICE OF DEPOSITION OF ROBERT VITO

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Schering Corporation ("Schering"), Schering Plough Corporation ("Schering Plough"), and Warrick Pharmaceuticals Corporation ("Warrick")² hereby cross-notice the deposition of Robert Vito for purposes of all cases pending in MDL No. 1456.

On May 21, 2007, attorneys for Abbott Laboratories, Inc. amended the notice of deposition of Mr. Vito for purposes of *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 06-CV-11337-PBS, a matter that is currently a part of MDL No. 1456. This notice is attached hereto. Through this cross-notice, counsel are hereby informed that the deposition of Mr. Vito will also be proceeding for purposes of all other cases pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

¹ As explained herein, this cross-notice regards all actions pending in MDL No. 1456, to the extent permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

² This cross-notice, which is being served for purposes of a number of actions pending in MDL No. 1456, is only served in a particular action on behalf of those entities that have appeared, been named, and been served in that particular action. To the extent that Schering, Schering Plough, or Warrick have not appeared, been served, or been named in a particular action, this notice does not constitute an appearance, consent to service, or consent to joinder

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Morgan Lewis, 1701 Market Street, Philadelphia, PA 19103, on June 19 and 20, 2007 beginning at 9:00 a.m. The attached subpoena *duces tecum* directs the witness to appear for the deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure, Court order, and any other applicable rules.

By attorneys,

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Eric P. Christofferson (BBO#654087)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering Corporation, Schering-
Plough Corporation, and Warrick
Pharmaceuticals Corporation*

Dated: May 22, 2007

by Schering, Schering Plough, or Warrick, respectively, in that action. Schering, Schering Plough, and Warrick also do not waive any objection regarding jurisdiction or other defenses, where applicable.

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Jobe G. Danganan
Jobe G. Danganan



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al.</i>)	
No. 06-CV-11337-PBS)	

AMENDED NOTICE OF DEPOSITION OF ROBERT VITO

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Abbott Laboratories, Inc. ("Abbott") by its undersigned attorneys, will take the deposition of Robert Vito.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Morgan Lewis, 1701 Market Street, Philadelphia, PA 19103, on June 19 and 20, 2007 beginning at 9:00 a.m. and continuing on successive days as necessary. The attached subpoena *duces tecum* directs the witness to appear for deposition and produce certain documents. The deposition will be taken upon cross-examination.

Such deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other purposes as permitted under the Federal Rules of Civil Procedure.

Dated: May 21, 2007

/s/ David S. Torborg
James R. Daly
Tina M. Tabacchi
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
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51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories, Inc.

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing AMENDED NOTICE OF DEPOSITION OF ROBERT VITO, and attachments, to be served upon all counsel of record electronically by causing same to be posted via LexisNexis, this 21st day of May, 2007.

/s/ David S. Torborg_____
David S. Torborg

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**



May 21 2007
5:07PM

<p>IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION</p> <p>THIS DOCUMENT RELATES TO <i>U.S. ex rel. Ven-A-Care of the Florida Keys, Inc., v. Abbott Laboratories, Inc., et al.</i></p>	<p style="text-align: center;">Pending in:</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>MDL NO. 1456</p> <p>Civil Action No. 06-CV-11337-PBS Lead Case No. 01-CV-12257</p> <p>Judge Patti B. Saris</p> <p>Chief Magistrate Judge Marianne B. Bowler</p>
---	---

SUBPOENA DUCES TECUM

TO: Robert Vito
Care of:
John K. Neal, Esq.
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

Morgan Lewis
1701 Market Street
Philadelphia, PA 19103

June 19 and 20, 2007 at 9:00 AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
Please see attached Exhibit A

PLACE

DATE AND TIME

Morgan Lewis
1701 Market Street
Philadelphia, PA 19103

June 19 and 20, 2007 at 9:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

David S. Torborg
Attorney for Defendant Abbott Laboratories, Inc.

May 21, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER: David S. Torborg, Esq., Jones Day, 51 Louisiana Ave., N.W., Washington, DC 20001 (202) 879-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party service the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

Documents Requested

1. A copy of your most current resume.
2. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs. This request does not seek documents contained at the offices of the United States Department of Health and Human Services – Office of Inspector General.
3. A copy of any and all Documents in your personal possession concerning the use of AWP or WAC by the Medicare or Medicaid programs for the reimbursement of drugs and/or the administration or dispensing of drugs.
4. A copy of any and all Documents in your personal possession concerning communications with Ven-A-Care of the Florida Keys, Inc., Centers for Medicare and Medicaid Services (“CMS”) (including the office of the General Counsel), and/or any party which is a plaintiff in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.
5. A copy of any and all Documents in your personal possession concerning communications with the Department of Justice (“DOJ”) or CMS regarding limitations on communications with any party which is a defendant in any litigation relating to AWP, WAC, and/or the pricing of drugs under Medicare or Medicaid.

Definitions

1. “AWP” or “Average Wholesale Price” means any figures so categorized and periodically published by any Publisher.
2. “Concern,” “concerning,” “relating to,” or “relate to” means refer to, regard, concern, describe, explain, state, evidence, record, constitute, pertain to, reflect, comprise, contain, embody, mention, show, support, contradict, and discuss, whether directly or indirectly, as required by the context to bring within the scope of the requests in this request for production of documents any documents that might be deemed outside their scope by another construction.
3. “Documents” means all original written, recorded, or graphic matters whatsoever, and any and all non-identical copies thereof, including but not limited to advertisements, affidavits, agreements, analyses, applications, appointment books, bills, binders, books, books of account, brochures, calendars, charts, checks or other records of payment, communications, computer printouts, computer stores data, conferences, or other meetings, contracts,

correspondence, diaries, electronic mail, evaluations, facsimiles, files, filings, folders, forms, interviews, invoices, jottings, letters, lists, manuals, memoranda, microfilm or other data compilations from which information can be derived, minutes, notations, notebooks, notes, opinions, pamphlets, papers, photocopies, photographs or other visual images, policies, recordings of telephone or other conversations, records, reports, resumes, schedules, scraps of paper, statements, studies, summaries, tangible things, tapes, telegraphs, telephone logs, telex messages, transcripts, website postings, and work papers, which are in the possession of the Carrier as defined above. A draft or non-identical copy is a separate document within the meaning of this term.

4. "WAC" means "Wholesale Acquisition Cost."

EXHIBIT DD-1

Vito, Robert

June 19, 2007

Philadelphia, PA

Page 1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - -

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:

6 PRICE LITIGATION : 01-CV-12257-PBS

7 :

8 THIS DOCUMENT RELATES TO :

9 U.S. ex rel. Ven-A-Care of :

10 the Florida Keys, Inc. v. :

11 Abbott Laboratories, Inc. :

12 No. 06-CV-11337-PBS :

13 - - -

14 Videotaped deposition of ROBERT

15 VITO was taken, pursuant to notice, at MORGAN

16 LEWIS & BOCKIUS, LLP, 1701 Market Street,

17 Philadelphia, Pennsylvania, on Tuesday, June

18 19, 2007, beginning at 9:10 a.m., before M.

19 Kathleen Muino, Professional Shorthand

20 Reporter, Notary Public; Michael Hunterton,

21 Certified Legal Video Specialist, there being

22 present:

Vito, Robert

June 19, 2007

Philadelphia, PA

Page 2

Page 4

1 APPEARANCES:

2
3 UNITED STATES DEPARTMENT OF JUSTICE
4 CIVIL DIVISION
5 BY: JOHN K. NEAL, ESQUIRE
6 601 D Street, N.W.
7 Washington, D.C. 20004
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1 APPEARANCES (Continued):

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10 Keys
11
12 WEXLER, TORISEVA & WALLACE, LLP
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16 Chicago, Illinois 60602
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20
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22

Page 3

Page 5

1 APPEARANCES (Continued):

2
3 U.S. DEPARTMENT OF HEALTH & HUMAN
4 SERVICES
5 Office of Inspector General
6 Office of Counsel to the Inspector
7 General
8 Administrative and Civil Remedies
9 Branch
10 BY: NANCY W. BROWN, ESQUIRE
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16 Representing the United States
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1 APPEARANCES (Continued):

2 STATE OF CALIFORNIA DEPARTMENT
3 OF JUSTICE
4 BUREAU OF MEDI-CAL FRAUD & ELDER ABUSE
5 BY: NICHOLAS N. PAUL, DEPUTY
6 ATTORNEY GENERAL
7 CIVIL PROSECUTIONS UNIT
8 P.O. Box 85266
9 110 West A Street, #1100
10 San Diego, California 92186
11 nicholas.paul@doj.ca.gov
12 Representing The State of California
13
14 THE HAVILAND LAW FIRM, LLC
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16 740 South Third Street
17 Third Floor
18 Philadelphia, Pennsylvania 19147
19 Phone: (215) 609-4661
20 haviland@havilandlaw.com
21 Representing the Commonwealth of
22 Pennsylvania

2 (Pages 2 to 5)

Vito, Robert

June 19, 2007

Philadelphia, PA

Page 6

1 APPEARANCES (Continued):
 2
 3 WINGET-HERNANDEZ, LLC
 4 BY: MICHAEL WINGET-HERNANDEZ, ESQUIRE
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3 (Pages 6 to 9)

Vito, Robert

June 19, 2007

Philadelphia, PA

<p style="text-align: right;">Page 10</p> <p>1 TELEPHONIC APPEARANCES:</p> <p>2</p> <p>3 WHITE & CASE, LLP</p> <p>4 BY: MILANA SALZMAN, ESQUIRE</p> <p>5 1155 Avenue of the Americas</p> <p>6 New York, New York 10036-2787</p> <p>7 Phone: (212) 819-8711</p> <p>8 msalzman@whitecase.com</p> <p>9 Representing Sandoz Inc.</p> <p>10</p> <p>11 DICKSTEIN SHAPIRO, LLP</p> <p>12 BY: SHAMIR PATEL, ESQUIRE</p> <p>13 1825 Eye Street, NW</p> <p>14 Washington, DC 20006</p> <p>15 Phone: (202) 420-2728</p> <p>16 PatelS@dicksteinshapiro.com</p> <p>17 Representing Baxter Healthcare</p> <p>18 Corporation</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 12</p> <p>1 TELEPHONIC APPEARANCES (Continued):</p> <p>2</p> <p>3 HOGAN & HARTSON LLP</p> <p>4 BY: JOSEPH H. YOUNG, ESQUIRE</p> <p>5 111 South Calvert Street</p> <p>6 Baltimore, Maryland 21202</p> <p>7 Phone: (410) 659-2700</p> <p>8 jhyoung@hhlaw.com</p> <p>9 Representing Amgen</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 Mary-Margaret Buchanan</p> <p>13 JONES DAY</p> <p>14</p> <p>15 John M. Lockwood, M.D.</p> <p>16 VEN-A-CARE OF THE FLORIDA KEYS</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 11</p> <p>1 TELEPHONIC APPEARANCES (Continued):</p> <p>2</p> <p>3 HOGAN & HARTSON, LLP</p> <p>4 BY: HOA T.T. HOANG, ESQUIRE</p> <p>5 BY: JAMES S. ZUCKER, ESQUIRE</p> <p>6 875 Third Avenue</p> <p>7 New York, New York 10022</p> <p>8 Phone: (212) 918-3640/3650</p> <p>9 htthoang@hhlaw.com</p> <p>10 jszucker@hhlaw.com</p> <p>11 Representing Bristol-Myers Squibb</p> <p>12 Company</p> <p>13</p> <p>14 KAYE SCHOLER LLP</p> <p>15 BY: NATHAN COHEN, ESQUIRE</p> <p>16 425 Park Avenue</p> <p>17 New York, New York 10022</p> <p>18 Phone: (212) 836-7418</p> <p>19 ncohen@kayescholer.com</p> <p>20 Representing Novartis Pharmaceuticals</p> <p>21 Corporation</p> <p>22</p>	<p style="text-align: right;">Page 13</p> <p>1 I N D E X</p> <p>2 - - -</p> <p>3</p> <p>4 ROBERT VITO</p> <p>5 EXAMINATION PAGE</p> <p>6 BY MR. TORBORG 17</p> <p>7</p> <p>8 - - -</p> <p>9 E X H I B I T S</p> <p>10 - - -</p> <p>11 NUMBER DESCRIPTION PAGE</p> <p>12 Exhibit Abbott 228 HHD068-1554 - 1557 103</p> <p>13 Exhibit Abbott 229 HHD068-0210 - 0216 109</p> <p>14 Exhibit Abbott 230 HHD068-1498 - 1502 112</p> <p>15 Exhibit Abbott 231 HHD067-0092 125</p> <p>16 Exhibit Abbott 232 HHD042-0018 - 0020 147</p> <p>17 Exhibit Abbott 233 HHD062-1211 - 1212 161</p> <p>18 Exhibit Abbott 234 HHD068-0977 - 1029 167</p> <p>19 Exhibit Abbott 235 Declaration of Robert</p> <p>20 A. Vito 228</p> <p>21 Exhibit Abbott 236 HHD042-0275 - 0277 276</p> <p>22</p>

4 (Pages 10 to 13)

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 VOLUME II

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:

6 PRICE LITIGATION : 01-CV-12257-PBS

7 :

8 THIS DOCUMENT RELATES TO :

9 U.S. ex rel. Ven-A-Care of :

10 the Florida Keys, Inc. v. :

11 Abbott Laboratories, Inc. :

12 No. 06-CV-11337-PBS :

13 - - -

14 Continuation of the videotaped

15 deposition of ROBERT VITO was taken, pursuant

16 to notice, at MORGAN LEWIS & BOCKIUS, LLP,

17 1701 Market Street, Philadelphia,

18 Pennsylvania, on Wednesday, June 20, 2007,

19 beginning at 8:43 a.m., before M. Kathleen

20 Muino, Professional Shorthand Reporter, Notary

21 Public; Michael Hunterton, Certified Legal

22 Video Specialist, there being present:

<p style="text-align: right;">Page 290</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>4 CIVIL DIVISION</p> <p>5 BY: JOHN K. NEAL, ESQUIRE</p> <p>6 601 D Street, N.W.</p> <p>7 Washington, D.C. 20004</p> <p>8 Phone: (202) 307-0405</p> <p>9 John.Neal2@usdoj.gov</p> <p>10 Representing the United States</p> <p>11</p> <p>12 U.S. DEPARTMENT OF JUSTICE</p> <p>13 CIVIL DIVISION</p> <p>14 BY: JUSTIN DRAYCOTT, ESQUIRE</p> <p>15 P.O. Box 261, Ben Franklin Station</p> <p>16 Washington, D.C. 20044</p> <p>17 Phone: (202) 305-9300</p> <p>18 justin.draycott@usdoj.gov</p> <p>19 Representing the United States</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 292</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 BERGER & MONTAGUE, P.C.</p> <p>4 BY: GARY L. AZORSKY, ESQUIRE</p> <p>5 1622 Locust Street</p> <p>6 Philadelphia, Pennsylvania 19103-6305</p> <p>7 Phone: (215) 875-3000</p> <p>8 gazorsky@bmnet</p> <p>9 Representing Ven-A-Care of the Florida</p> <p>10 Keys</p> <p>11</p> <p>12 WEXLER, TORISEVA & WALLACE, LLP</p> <p>13 BY: JENNIFER FOUNTAIN CONNOLLY, ESQUIRE</p> <p>14 One North LaSalle Street</p> <p>15 Suite 2000</p> <p>16 Chicago, Illinois 60602</p> <p>17 Phone: (312) 346-2222</p> <p>18 jfc@wtwlaw.us</p> <p>19 Representing the MDL Plaintiffs</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 291</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 U.S. DEPARTMENT OF HEALTH & HUMAN</p> <p>4 SERVICES</p> <p>5 Office of Inspector General</p> <p>6 Office of Counsel to the Inspector</p> <p>7 General</p> <p>8 Administrative and Civil Remedies</p> <p>9 Branch</p> <p>10 BY: NANCY W. BROWN, ESQUIRE</p> <p>11 Room 5527, Cohen Building</p> <p>12 330 Independence Avenue, S.W.</p> <p>13 Washington, D.C. 20201</p> <p>14 Phone: (202) 205-9430</p> <p>15 Nancy.Brown@oig.hhs.gov</p> <p>16 Representing the United States</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 293</p> <p>1 APPEARANCES (Continued):</p> <p>2 STATE OF CALIFORNIA DEPARTMENT</p> <p>3 OF JUSTICE</p> <p>4 BUREAU OF MEDI-CAL FRAUD & ELDER ABUSE</p> <p>5 BY: NICHOLAS N. PAUL, DEPUTY</p> <p>6 ATTORNEY GENERAL</p> <p>7 CIVIL PROSECUTIONS UNIT</p> <p>8 P.O. Box 85266</p> <p>9 110 West A Street, #1100</p> <p>10 San Diego, California 92186</p> <p>11 nicholas.paul@doj.ca.gov</p> <p>12 Representing The State of California</p> <p>13</p> <p>14 THE HAVILAND LAW FIRM, LLC</p> <p>15 BY: DONALD E. HAVILAND, JR., ESQUIRE</p> <p>16 740 South Third Street</p> <p>17 Third Floor</p> <p>18 Philadelphia, Pennsylvania 19147</p> <p>19 Phone: (215) 609-4661</p> <p>20 haviland@havilandlaw.com</p> <p>21 Representing the Commonwealth of</p> <p>22 Pennsylvania</p>

<p style="text-align: right;">Page 294</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 OFFICE OF THE ATTORNEY GENERAL</p> <p>4 MEDICAID FRAUD CONTROL UNIT</p> <p>5 BY: JAIME DOYLE LIANG, AAG</p> <p>6 PL-01 The Capitol</p> <p>7 Tallahassee, Florida 32399-1050</p> <p>8 Phone: (850) 414-3600</p> <p>9 jaime_liang@oag.state.fl.us</p> <p>10 Representing The State of Florida</p> <p>11</p> <p>12 JONES DAY</p> <p>13 BY: DAVID S. TORBORG, ESQUIRE</p> <p>14 51 Louisiana Avenue, N.W.</p> <p>15 Washington, D.C. 20001-2113</p> <p>16 Phone: (202) 879-5562</p> <p>17 dstorborg@jonesday.com</p> <p>18 Representing Abbott Laboratories, Inc.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 296</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 LOCKE, LIDDELL & SAPP, LLP</p> <p>4 BY: JOHN P. McDONALD, ESQUIRE</p> <p>5 Suite 2200</p> <p>6 2200 Ross Avenue</p> <p>7 Dallas, Texas 75201-6776</p> <p>8 jpmcdonald@lockeliddell.com</p> <p>9 Representing, B. Braun Medical Inc.,</p> <p>10 Schering-Plough, Schering, and Warrick</p> <p>11</p> <p>12</p> <p>13 HAND ARENDALL, LLC</p> <p>14 BY: ROGER L. BATES, ESQUIRE</p> <p>15 1200 Park Place Tower</p> <p>16 2001 Park Place North</p> <p>17 Birmingham, Alabama 35203</p> <p>18 Phone: (205) 502-0105</p> <p>19 rbates@handarendall.com</p> <p>20 Representing The State of Alabama</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 295</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 KELLEY, DRYE & WARREN, LLP</p> <p>4 BY: NEIL MERKL, ESQUIRE</p> <p>5 BY: MARISA SZELAG, ESQUIRE</p> <p>6 101 Park Avenue</p> <p>7 New York, New York 10178</p> <p>8 Phone: (212) 808-7811</p> <p>9 nmerkl@kelleydrye.com</p> <p>10 Representing the Dey Companies</p> <p>11</p> <p>12 KIRKLAND & ELLIS, LLP</p> <p>13 BY: ERIC GORTNER, ESQUIRE</p> <p>14 200 East Randolph Drive</p> <p>15 Chicago, Illinois 60601</p> <p>16 Phone: (312) 861-2285</p> <p>17 egortner@kirkland.com</p> <p>18 Representing Roxane Laboratories and</p> <p>19 Boehringer Ingelheim</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 297</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 KIRKLAND & ELLIS, LLP</p> <p>4 BY: RAYNA S. WALTERS, ESQUIRE</p> <p>5 655 Fifteenth Street, NW</p> <p>6 Washington, DC 20005-5793</p> <p>7 Phone: (202) 879-5218</p> <p>8 rwalters@kirkland.com</p> <p>9 Representing Barr and Duramed</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 298</p> <p>1 TELEPHONIC APPEARANCES:</p> <p>2</p> <p>3 WINGET-HERNANDEZ, LLC</p> <p>4 BY: MICHAEL WINGET-HERNANDEZ, ESQUIRE</p> <p>5 3112 Windsor Road, No. 228</p> <p>6 Austin, Texas 78703</p> <p>7 Phone: (512) 474-4095</p> <p>8 michael@winget-hernandez.com</p> <p>9 Representing New York Counties, The</p> <p>10 State of Wisconsin, The State of</p> <p>11 Illinois; The State of Kentucky, The</p> <p>12 State of Hawaii</p> <p>13</p> <p>14 WHITE & CASE, LLP</p> <p>15 BY: MILANA SALZMAN, ESQUIRE</p> <p>16 1155 Avenue of the Americas</p> <p>17 New York, New York 10036-2787</p> <p>18 Phone: (212) 819-8711</p> <p>19 msalzman@whitecase.com</p> <p>20 Representing Sandoz Inc.</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 300</p> <p>1 TELEPHONIC APPEARANCES (Continued):</p> <p>2</p> <p>3 KAYE SCHOLER LLP</p> <p>4 BY: NATHAN COHEN, ESQUIRE</p> <p>5 425 Park Avenue</p> <p>6 New York, New York 10022</p> <p>7 Phone: (212) 836-7418</p> <p>8 ncohen@kayescholer.com</p> <p>9 Representing Novartis Pharmaceuticals</p> <p>10 Corporation</p> <p>11</p> <p>12</p> <p>13 HOGAN & HARTSON LLP</p> <p>14 BY: JOSEPH H. YOUNG, ESQUIRE</p> <p>15 111 South Calvert Street</p> <p>16 Baltimore, Maryland 21202</p> <p>17 Phone: (410) 659-2700</p> <p>18 jhyoung@hhlaw.com</p> <p>19 Representing Amgen</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 299</p> <p>1 TELEPHONIC APPEARANCES (Continued):</p> <p>2</p> <p>3 DICKSTEIN SHAPIRO, LLP</p> <p>4 BY: LISA A. HALL, ESQUIRE</p> <p>5 1825 Eye Street, NW</p> <p>6 Washington, DC 20006</p> <p>7 Phone: (202) 420-4129</p> <p>8 Halll@dicksteinshapiro.com</p> <p>9 Representing Baxter Healthcare</p> <p>10 Corporation</p> <p>11</p> <p>12</p> <p>13 HOGAN & HARTSON, LLP</p> <p>14 BY: JAMES S. ZUCKER, ESQUIRE</p> <p>15 875 Third Avenue</p> <p>16 New York, New York 10022</p> <p>17 Phone: (212) 918-3650</p> <p>18 jszucker@hhlaw.com</p> <p>19 Representing Bristol-Myers Squibb</p> <p>20 Company</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 301</p> <p>1 TELEPHONIC APPEARANCES (Continued):</p> <p>2</p> <p>3 ARNOLD & PORTER, LLP</p> <p>4 BY: VICTOR RORTVEDT, ESQUIRE</p> <p>5 555 Twelfth Street, NW</p> <p>6 Washington, DC 20004</p> <p>7 Phone: (202) 942-5412</p> <p>8 victor_Rortvedt@aporter.com</p> <p>9 Representing Endo Pharmaceuticals</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 ALSO PRESENT:</p> <p>17 Mary-Margaret Buchanan</p> <p>18 JONES DAY</p> <p>19</p> <p>20 John M. Lockwood, M.D.</p> <p>21 VEN-A-CARE OF THE FLORIDA KEYS</p> <p>22</p>

<p style="text-align: right;">Page 302</p> <p>1 I N D E X</p> <p>2 - - -</p> <p>3</p> <p>4 ROBERT VITO, VOL. II</p> <p>5 EXAMINATION PAGE</p> <p>6 BY MR. TORBORG 304</p> <p>7</p> <p>8 - - -</p> <p>9 E X H I B I T S</p> <p>10 - - -</p> <p>11 NUMBER DESCRIPTION PAGE</p> <p>12 Exhibit Abbott 237 HHD050-1266 - 1279 309</p> <p>13 Exhibit Abbott 238 HHD011-0934 - 0936 317</p> <p>14 Exhibit Abbott 239 HHD062-0642 339</p> <p>15 Exhibit Abbott 240 42 CFR Ch. IV (10-1-02 Ed) 347</p> <p>16 Exhibit Abbott 241 HHD042-0066 - 0068 355</p> <p>17 Exhibit Abbott 242 HHD052-0914 - 0918 370</p> <p>18 Exhibit Abbott 243 HHD052-0919 - 0965 370</p> <p>19 Exhibit Abbott 244 HHD042-0285 383</p> <p>20 Exhibit Abbott 245 HHD050-1262 390</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 304</p> <p>1 THE VIDEOGRAPHER: Good morning. Here</p> <p>2 starts Tape No. 6 in the continued deposition --</p> <p>3 videotape deposition of Robert Vito taken by the</p> <p>4 defendant party in the matter of In Re:</p> <p>5 Pharmaceutical Industry Average Wholesale Price</p> <p>6 Litigation.</p> <p>7 The date is June 20th, 2007, and this</p> <p>8 deposition is being held at Morgan, Lewis &</p> <p>9 Bockius, 1701 Market Street, in Philadelphia,</p> <p>10 Pennsylvania. The time on the monitor is 8:43 a.m.</p> <p>11 My name is Michael Hunterton, and I am the</p> <p>12 certified videographer, the court reporter today is</p> <p>13 Kathleen Muino; both associated with Henderson</p> <p>14 Legal Services of Washington, DC.</p> <p>15 - - -</p> <p>16 EXAMINATION</p> <p>17 - - -</p> <p>18 BY MR. TORBORG:</p> <p>19 Q. Welcome back, Mr. Vito.</p> <p>20 A. Thank you.</p> <p>21 Q. Yesterday, when we finished up for the</p> <p>22 day, I was asking you about Exhibit Abbott 030,</p>
<p style="text-align: right;">Page 303</p> <p>1 EXHIBITS (Continued):</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit Abbott 246 HHD059-0129 - 0133 464</p> <p>4 Exhibit Abbott 247 HHD059-0445 469</p> <p>5 Exhibit Abbott 248 HHD059-0447 471</p> <p>6 Exhibit Abbott 249 HHD050-1463 - 1466 473</p> <p>7 Exhibit Abbott 250 HHD059-0001 - 0004 473</p> <p>8 Exhibit Abbott 251 HHD062-0288 - 0295 511</p> <p>9 Exhibit Abbott 252 HHD059-0014 - 0029 515</p> <p>10 Exhibit Abbott 253 HHD061-0977 - 0981 542</p> <p>11 Exhibit Abbott 254 HHD061-0989 - 0995 547</p> <p>12 Exhibit Abbott 255 HHD068-0411 - 1412 555</p> <p>13 Exhibit Abbott 256 HHD052-2058 - 2061 578</p> <p>14 Exhibit Abbott 257 HHD062-1216 - 1238 584</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 305</p> <p>1 which is an OIG report titled Suppliers'</p> <p>2 Acquisition Costs for Albuterol Sulfate.</p> <p>3 And I've asked you to turn to Page 7 of that</p> <p>4 report, which I believe is where we ended off</p> <p>5 yesterday; specifically, last paragraph, there's a</p> <p>6 discussion of some additional costs that suppliers</p> <p>7 incur in connection with providing albuterol</p> <p>8 sulfate to Medicare beneficiaries. Correct?</p> <p>9 A. Yes.</p> <p>10 Q. At least there's a discussion of those</p> <p>11 additional costs, correct?</p> <p>12 A. Of the ones that responded to us, the</p> <p>13 information they responded, yes, it's in here.</p> <p>14 Q. Okay. And why was your office seeking</p> <p>15 to gain information about those additional costs?</p> <p>16 MR. NEAL: I'll object to the form.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: We wanted to give an</p> <p>19 opportunity for the providers to tell us any other</p> <p>20 costs that they thought they had in addition to the</p> <p>21 costs of the ingredients.</p> <p>22 BY MR. TORBORG:</p>